

DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION**NOTICE OF A PUBLIC MEETING****The District of Columbia's Child Support Guideline Commission's monthly meeting**

Thursday, March 25, 2010, at 8:00 A.M.
D.C. Office of the Attorney General, Child Support Services Division
441 4th Street, NW, Ste. 550N
Conference Room A
Washington, D.C. 20001

The District of Columbia Child Support Guidelines Commission (Commission) announces its monthly meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its regularly scheduled monthly meeting.

Persons wishing to Review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to attend should contact: Cory Chandler, Chairperson, Child Support Guideline Commission, at 202-724-2131, or by e-mail at cory.chandler@dc.gov by Monday, March 22, 2010. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia, Child Support Services Division at the address below.

Individuals who wish to submit their comments as part of the official record, should send copies of written statements no later than 4:00 p.m., Monday, March 22, 2010 to:

Cory Chandler, Deputy Director
Office of the Attorney General for the District of Columbia,
Child Support Services Division
441 4th Street, NW
550 North
Washington, D.C. 20001

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF SCHEDULED MEETING

The Board for the Condemnation of Insanitary Buildings will be holding a scheduled meeting on Wednesday, March 24, 2010 at 10:00 am. The meeting will be held at 441 4th Street, NW, 11th Floor Conference Center, Washington, D.C. 20001.

Draft board meeting agendas are available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, by clicking on the “Board for the Condemnation of Insanitary Buildings” tab on the main page.

For inquiries, please call the Board for the Condemnation of Insanitary Buildings at (202) 442-4332 or by email at vacantproperty@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA**DEPARTMENT ON DISABILITY SERVICES****NOTICE OF PUBLIC QUARTERLY MEETINGS****D.C. State Rehabilitation Council (SRC) to Hold Quarterly Meetings**

The Department on Disability Services
Rehabilitation Services Administration
1125 15th St., NW
Washington, DC 20005

The D.C. State Rehabilitation Council will hold its public quarterly meetings regarding the operation of the District of Columbia state vocational rehabilitation program, as mandated by the Rehabilitation Act of 1975, as amended. The following meetings are to be conducted from 9:00 am to 1:00 pm in the following locations:

Dates	Locations
Thursday, May 20, 2010	1A Training Room
Thursday, July 15, 2010	1A Training Room
Wednesday, September 15, 2010	1A Training Room
Thursday, November 18, 2010	Conference Room 2B
Thursday, January 20, 2011	1A Training Room

Individuals who wish to attend these meetings are welcome and should call 202-442-8466 five (5) business days prior to the meeting date to ensure the meeting has not been cancelled or rescheduled.

If you require reasonable accommodations for attendance, please call 202-442-8466 two (2) weeks before the public meeting to request accommodations.

BOARD OF ELECTIONS AND ETHICS**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 3D07, 6B11, 8C05, 8C06, 8E01

Petition Circulation Period: **Monday, March 22, 2010 thru Monday, April 12, 2010**

Petition Challenge Period: **Thursday, April 15, 2010 thru Thursday, April 22, 2010**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 1200 First Street NE, Washington, DC, intends to issue a permit to operate three laundry dryers at MLS, Inc. located at 6600 Sandy Spring Road NW, Washington DC 20012.

The application to operate and the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington DC 20002

No written comments postmarked after April 19, 2010 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 1200 First Street NE, Washington, DC, intends to issue a permit to construct/operate one (1) low sulfur diesel fired 750 kW emergency generator at the Naval Facilities Engineering Command, Washington Navy Yard located at 1013 O Street SE, Bldg. 166, Suite 100N, Washington, DC 20374.

The application to construct and operate the emergency generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington DC 20002

No written comments postmarked after April 19, 2010 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, Washington, DC, intends to issue a permit to Sabre Demolition to install and operate a 4043T Impact Crusher to crush concrete for recycling at DC Village, located at #2 DC Village Lane, SW, Washington, DC 20374.

The application to install and operate the 4043T Impact Crusher and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington D.C. 20002

No written comments postmarked after April 19, 2010 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2010

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, Washington, DC, intends to issue a permit to operate one (1) 750 kW diesel fired emergency generator and one (1) 600 kW diesel fired emergency generator at the SAVVIS Communications property located at 1275 K Street NW, Washington DC 20005.

The applications to operate the generators and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington DC 20002

No written comments postmarked after April 19, 2010 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

EXECUTIVE OFFICE OF THE MAYOR**SERVE DC- THE MAYOR'S OFFICE ON VOLUNTEERISM
DC COMMISSION ON NATIONAL AND
COMMUNITY SERVICE****PUBLIC MEETING**

The mission of Serve DC- The Mayor's Office on Volunteerism is to promote the District of Columbia's spirit of service through national service, partnerships and volunteerism.

The DC Commission on National and Community Service (Serve DC) is pleased to announce its next Commission meeting on:

Wednesday, March 24, 2010, 5 P.M. – 7 P.M.
One Judiciary Square
441 4th Street, NW
Room 1114
Washington, DC 20001

All meetings are open to the public. Meeting minutes can be obtained from 2000 14th Street, NW, Suite 101, Washington, DC 20001.

For additional information or to request a copy of the minutes, please call 202-727-7925.

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
AN OFFER OF SALE WITH A THIRD PARTY SALE CONTRACT FOR A
SINGLE RENTED FAMILY HOUSE, SINGLE RENTED CONDOMINIUM UNIT OR
SINGLE RENTED COOPERATIVE UNIT**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to an Offer of Sale (Form A) for the sale of a single rented family house, single rented residential condominium unit or single rented residential cooperative unit. This Offer of Sale (Form A) is used when an owner gives the tenants an opportunity to purchase **after** the owner has accepted (ratified) a third party sale contract for the housing accommodation.

INSTRUCTIONS FOR ISSUING THE OFFER OF SALE (FORM A)

1. Do not delete or alter any part of the Offer of Sale (Form A).
2. Fill in the date, name of each tenant, and indicate whether the housing accommodation is a single rented family house, a single rented condominium unit (include the unit number) or single rented cooperative unit (include the unit number). Each tenant must receive a separate Offer of Sale (Form A) addressed to him or her.
3. The asking price and the material terms of the sale must be stated in the Offer of Sale (Form A). The material terms include the type of financial arrangements, if any, the owner will accept at settlement. If the material terms do not fit in the space provided, attach a supplemental page listing those additional material terms to the Offer of Sale (Form A).
4. The address and telephone number of the owner, or the owner's agent, must be stated on the Offer of Sale (Form A).
5. The owner or the owner's agent, must sign his or her full name on the Offer of Sale (Form A). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual's **name**, not a business name, must be on this line. The name of the business may be placed in the address area.
6. Send each tenant the Offer of Sale (Form A) and a copy of the third party sale contract by **certified mail**. (Faxing or emailing the Offer of Sale (Form A) is **NOT** proper delivery.)
7. One (1) copy of the Offer of Sale (Form A) and one (1) copy of the ratified third party sale contract must be sent **by certified mail** to or **filed in person** at the Rental Conversion and Sale Division. **Do NOT send the Offer of Sale (Form A) by facsimile or email.** Faxing or emailing an Offer of Sale is **NOT** proper delivery.

8. **The owner or the owner's agent must certify that the Rental Conversion and Sale Division and each tenant were sent copies of the Offer of Sale (Form A) on the same day.** Fill in and sign the attached affidavit, and include the completed and signed affidavit to the Rental Conversion and Sale Division when the Offer of Sale (Form A) is sent or delivered. Attach a list of tenants to the Affidavit and label the list "Exhibit A."

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

AFFIDAVIT OF DELIVERY OF OFFER OF SALE WITH A THIRD PARTY CONTRACT
FOR HOUSING ACCOMMODATIONS CONSISTING OF 1 RENTAL UNIT

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

1. That on _____ at _____ a.m. / p.m.
[circle one], I delivered envelopes addressed to each tenant identified on the list attached to this Affidavit as **Exhibit A** to a U.S. Postal Service employee at the U.S. Post Office located at _____, with proper postage affixed for delivery by certified mail, and containing a true, correct and complete copy of the Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address;

2. That on _____ at _____ a.m. / p.m.
[circle one], I [check only one]

☐ **hand-delivered** a copy of the attached true, correct and complete Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; **OR**

☐ **delivered by certified mail** a copy of the attached true, correct and complete Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; and

3. I hereby certify that the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division and each tenant listed on Exhibit A of this Affidavit were provided copies of the Offer of Sale **on the same day**.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, 2001 ed., as amended, that the foregoing representations and statements are true and correct.

Date_____
Signature_____
Print Name

FORM A**DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE****OFFER OF SALE & TENANT OPPORTUNITY TO PURCHASE WITH A THIRD PARTY
SALE CONTRACT FOR A SINGLE RENTED FAMILY HOUSE, A SINGLE RENTED
CONDOMINIUM UNIT OR A SINGLE RENTED COOPERATIVE UNIT****BY CERTIFIED MAIL**

DATE: _____

Dear _____:

This is to advise you of the owner's offer to sell the

(Check one)

- | | |
|--------------------------|-------------------------------|
| <input type="checkbox"/> | Single Family House |
| <input type="checkbox"/> | Condominium Unit Number _____ |
| <input type="checkbox"/> | Cooperative Unit Number _____ |

in which you live located at _____,
Washington, D.C. _____.**1. OFFER OF SALE**

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this housing accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)) (the "Act"). This Offer of Sale also describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. ACCEPTANCE PERIOD

If you wish to respond to this Offer of Sale, you shall provide **both** the owner and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division with a written statement accepting the owner's offer to sell the housing accommodation either by certified mail or hand delivery on or before the thirtieth (30th) day after you received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of this Offer of Sale, whichever date is later.

If you fail to provide a written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division during the thirty (30) day response time period, your rights under this Offer of Sale will expire except as to the right of first refusal discussed below.

3. INFORMATION

Within seven (7) days of receiving a written request for the information, the owner shall provide

FORM A**DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE**

you with copies of: (1) a floor plan of the housing accommodation, if available; (2) if floor plan is not available, owner must tell you in writing; (3) an itemized list of monthly operation expenses; (4) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (5) the most recent rent roll, listing of tenants and a list of vacant rental units.

4. NEGOTIATION

If you properly submit your written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division, you have a minimum of sixty (60) days to ratify a sale contract with the owner.

5. PRICE AND MATERIAL TERMS

The asking price for the housing accommodation is \$_____. You must be informed of the type of financial arrangements, if any, the owner will accept at settlement. The owner may not require that you prove financial ability to enter into a sale contract. However, in the event the third party sale contract provides for deferred purchase money financing, the owner may require that prior to settlement, you prove (either alone or in conjunction with a third party) the ability to pay back financing before the owner grants deferred purchase money financing. The material terms of the sale for the tenant(s) are as follows:

☐ Check here ONLY if a separate page of material terms is attached.

A COPY OF THE RATIFIED THIRD PARTY SALE CONTRACT IS ATTACHED.

6. DEPOSIT

At the time of contracting, you are required to deposit no more than five (5) percent of the contract sale price. This deposit, with interest accrued thereon, is refundable in case there is a good faith inability to perform under the sale contract.

7. SETTLEMENT TIME

If you decide to purchase and the owner accepts your offer, you will have a minimum of sixty (60) days to secure financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within ninety (90) days after the sale contract is ratified, the owner will provide you with an extension of time consistent with the written estimate.

FORM A**DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE****8. THIRD PARTY SALE CONTRACT AND RIGHT OF FIRST REFUSAL**

As of this date, the owner has accepted a sale contract to sell the housing accommodation to another party, if you do not purchase. **The owner has enclosed a copy of the sale contract for your review.** In accordance with the Act, in addition to your rights stipulated in this offer, you will have an additional fifteen (15) days (right of first refusal) to match the enclosed third party sale contract, even if you do not submit a written statement accepting the owner's offer to sell the housing accommodation or if you reject this Offer of Sale. If a written statement accepting the owner's offer to sell the housing accommodation is submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

9. NEW OFFER OF SALE

You will be issued a new Offer of Sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to you or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within one hundred eighty (180) days from the date of this Offer of Sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Act.

10. WAIVER

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer of Sale, you may waive any of your other tenant's rights in exchange for any consideration which you find acceptable. You must sign a written statement waiving any of your tenant's rights. The owner will provide the Rental Conversion and Sale Division with a copy of the signed waiver document.

11. ASSISTANCE

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

If you have any questions regarding this matter, please call _____ (insert contact name) on telephone number (_____) _____.

THIS IS OFFER OF SALE IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may sign),

FORM A**DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE**Owner's SIGNATUREOwner's Agent's SIGNATURE

Owner's PRINTED Name

Owner's Agent's PRINTED Name

Owner's Address, City, State & Zip Code)

Owner's Agent's Address, City, State & Zip
Code)

cc: 1 copy of the Offer of Sale, 1 copy of the third party sale contract, Affidavit and an Exhibit
A attachment by hand delivery or certified mail to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
AN OFFER OF SALE WITH A THIRD PARTY SALE CONTRACT FOR
TWO (2), THREE (3) OR FOUR (4) RENTAL UNIT HOUSING ACCOMMODATIONS**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to an Offer of Sale (Form A) for the sale of a two (2), three (3) or four (4) residential rental unit housing accommodation. This Offer of Sale (Form A) is used when an owner gives the tenants an opportunity to purchase **after** the owner has accepted (ratified) a third party sale contract for the housing accommodation.

To determine whether the housing accommodation is 2 to 4 rental units, all rental units in the housing accommodation are counted. The occupied rental units as well as vacant rental units must be included in the total number of rental units for the housing accommodation.

INSTRUCTIONS FOR ISSUING THE OFFER OF SALE (FORM A)

1. Do not delete or alter any part of the Offer of Sale (Form A).
2. Fill in the date, number of occupied and vacant rental units, combined total number of rental units, name of each tenant with each apartment number and the address of the housing accommodation. Each tenant must receive a separate Offer of Sale (Form A) addressed to him or her.
3. Due to the number of Offers of Sale involved in housing accommodations with 2 to 4 rental units, the Rental Conversion and Sale Division requests that the owner or the owner's agent send only one (1) copy of the Offer of Sale and a copy of the ratified third party sale contract with a list of the tenants to the Rental Conversion and Sale Division.
4. The asking price and the material terms of the sale must be stated in the Offer of Sale (Form A). The material terms include the type of financial arrangements, if any, the owner will accept at settlement. If the material terms do not fit in the space provided, attach a supplemental page listing those material terms to the Offer of Sale (Form A).
5. The address and telephone number of the owner, or the owner's agent, must be stated on the Offer of Sale (Form A).
6. The owner or the owner's agent, must sign his or her full name on the Offer of Sale (Form A). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual's **name**, not a business name, must be on this line. The name of the business may be placed in the address area.

7. Send each tenant the Offer of Sale (Form A) and a copy of the third party sale contract by **certified mail**. A copy of the Offer of Sale (Form A) must also be posted in conspicuous places in the common areas of the housing accommodation.
8. One (1) copy of the Offer of Sale (Form A) with a list of the tenants must be sent **by certified mail** to or **filed in person** at the Rental Conversion and Sale Division. **Do NOT send the Offer of Sale (Form A) by facsimile or email.** Faxing or emailing an Offer of Sale is **NOT** proper delivery.
9. **The owner or the owner's agent must certify that the Rental Conversion and Sale Division and each tenant were sent copies of the Offer of Sale (Form A) on the same day.** Fill in and sign the attached affidavit, and include the completed and signed affidavit to the Rental Conversion and Sale Division when the Offer of Sale (Form A) is sent or delivered. Attach a list of tenants to the Affidavit and label the list "Exhibit A."

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

AFFIDAVIT OF DELIVERY OF OFFER OF SALE WITH A THIRD PARTY CONTRACT
FOR HOUSING ACCOMMODATIONS CONSISTING OF MORE THAN 1 RENTAL UNIT

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

1. That on _____ at _____ a.m. / p.m.
[circle one], I delivered envelopes addressed to each tenant identified on the list attached to this Affidavit as **Exhibit A** to a U.S. Postal Service employee at the U.S. Post Office located at _____, with proper postage affixed for delivery by certified mail, and containing a true, correct and complete copy of the Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address;

2. I posted a true, correct and complete copy of the Offer of Sale dated _____ in a conspicuous place in common areas of the housing accommodation;

3. That on _____ at _____ a.m. / p.m.
[circle one], I [check only one]

☐ **hand-delivered** a copy of the attached true, correct and complete Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; **OR**

☐ **delivered by certified mail** a copy of the attached true, correct and complete Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; and

4. I hereby certify that the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division and each tenant listed on Exhibit A of this Affidavit were provided copies of the Offer of Sale **on the same day**.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, 2001 ed., as amended, that the foregoing representations and statements are true and correct.

Date_____
Signature_____
Print Name

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

OFFER OF SALE & TENANT OPPORTUNITY TO PURCHASE WITH A THIRD PARTY
SALE CONTRACT FOR HOUSING ACCOMMODATIONS WITH
TWO, THREE OR FOUR RENTAL UNITS

UNITS

TWO, THREE OR FOUR RENTAL

DATE: _____

Number of Occupied Rental Units _____

Number of Vacant Rental Units _____

BY CERTIFIED MAIL

COMBINED TOTAL NUMBER OF RENTAL UNITS _____

Dear _____:

This is to advise you of the owner's offer to sell the housing accommodation in which you live located at _____, Washington, D.C. _____. The total number of rental units in the housing accommodation is: _____.

1. OFFER OF SALE

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this housing accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)) (the "Act"). This Offer of Sale also describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. ACCEPTANCE PERIOD

Any reference to a "tenant group" means the tenants from more than one rental unit are acting together. Any reference to an "individual tenant" means all of the tenants (if more than one) from a single rental unit who sign a written statement accepting the owner's offer to sell the housing accommodation.

If you wish to respond to this Offer of Sale, the tenants acting together shall provide **both** the owner and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division with a **joint** written statement accepting the owner's offer to sell the housing accommodation either by certified mail or hand delivery on or before the fifteenth (15th) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

Division's receipt of a copy of this Offer of Sale, whichever date is later.

After the fifteen (15) day period, if the tenants acting together do not submit a written statement accepting the owner's offer to sell the housing accommodation, then you, as an individual tenant, have seven (7) days to provide **both** the owner and the Rental Conversion and Sale Division with a written statement accepting the owner's offer to sell the housing accommodation, either by hand-delivery or by certified mail on or before the twenty-second (22nd) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

If the tenants acting together or you, acting individually, do not provide a written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division within the fifteen (15) day and seven (7) day response time periods, the tenants' rights under this Offer of Sale will expire, except as to the right of first refusal discussed below.

3. INFORMATION

Within seven (7) days of receiving a written request for the information, the owner shall provide you with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants and a list of vacant rental units.

4. NEGOTIATION

If a tenant group or an individual tenant properly submits a written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division, upon the owner's receipt, the tenant group or an individual tenant has a minimum of ninety (90) days to ratify a sale contract with the owner.

If at the end of the ninety (90) day negotiation time period, or any extension thereof, a tenant group has not entered into a sale contract with the owner, the owner will provide an additional thirty (30) day period, during which any one (1) of the individual tenants may contract with the owner for the purchase of the housing accommodation.

If the owner receives a written statement accepting the owner's offer to sell the housing accommodation from more than one individual tenant, the owner will negotiate with each tenant separately, or jointly if you agree to negotiate jointly. However, if the owner is required to negotiate with more than one tenant, the owner will decide which sale contract is more favorable without liability to the other tenant(s).

5. PRICE AND MATERIAL TERMS

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

The asking price for the housing accommodation is \$_____. You must be informed of the type of financial arrangements, if any, the owner will accept at settlement. The owner may not require that a tenant group or an individual tenant prove financial ability to enter into a sale contract. However, in the event the third party sale contract provides for deferred purchase money financing, the owner may require that prior to settlement, you prove (either alone or in conjunction with a third party) the ability to pay back financing before the owner grants a tenant group or an individual tenant deferred purchase money financing. The material terms of the sale for the tenants are as follows:

☐ Check here ONLY if a separate page of material terms is attached.

A COPY OF THE RATIFIED THIRD PARTY SALE CONTRACT IS ATTACHED.

6. DEPOSIT

At the time of contracting, a tenant group or an individual tenant is required to deposit no more than five (5) percent of the contract sale price. This deposit, with interest accrued thereon, is refundable in case there is a good faith inability to perform under the sale contract.

7. SETTLEMENT TIME

If a tenant group or an individual tenant decides to purchase, and the owner accepts, the tenant group or the individual tenant has a minimum of ninety (90) days to secure financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within one hundred twenty (120) days after the sale contract is ratified, the owner will provide the tenant group or the individual tenant with an extension of time consistent with the written estimate.

8. THIRD PARTY SALE CONTRACT AND RIGHT OF FIRST REFUSAL

As of this date, the owner has accepted a sale contract to sell the housing accommodation to another party, if you do not purchase. **The owner has enclosed a copy of the ratified third party sale contract for your review.** In accordance with the Act, in addition to your rights stipulated in this Offer of Sale, you will have an additional fifteen (15) days (right of first refusal) to match the third party sale contract, even if you do not submit a written statement accepting the owner's offer to sell the housing accommodation or if you reject this Offer of Sale. If a written statement accepting the owner's offer to sell the housing accommodation is

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

9. NEW OFFER OF SALE

You will be issued a new Offer of Sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to you or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within two hundred and forty (240) days from the date of this Offer of Sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Act.

10. WAIVER

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer of Sale, you may waive any other tenants' rights in exchange for any consideration which you find acceptable. You must sign a written statement waiving any of your tenants' rights. The owner will provide the Rental Conversion and Sale Division with a copy of the signed waiver document.

11. ASSISTANCE

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

If you have any questions regarding this matter, please call _____ (insert contact name) on telephone number (_____) _____.

THIS IS OFFER OF SALE IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may sign),

Owner's SIGNATURE

Owner's Agent's SIGNATURE

Owner's PRINTED Name

Owner's Agent's PRINTED Name

Owner's Address, City, State & Zip Code)

Owner's Agent's Address, City, State & Zip

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

Code)

cc: 1 copy of the Offer of Sale, 1 copy of the third party sale contract, Affidavit and an Exhibit
A attachment by hand delivery or certified mail to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
AN OFFER OF SALE WITH A THIRD PARTY SALE CONTRACT FOR
FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATIONS**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to an Offer of Sale (Form A) for the sale of a five (5) or more residential rental unit housing accommodation. This Offer of Sale (Form A) is used when an owner gives the tenants an opportunity to purchase **after** the owner has accepted (ratified) a third party sale contract for the housing accommodation.

In order to determine whether the housing accommodation is five (5) or more rental units, all rental units in the housing accommodation are counted. The occupied rental units as well as those vacant rental units must be included in the total number of rental units for the housing accommodation.

INSTRUCTIONS FOR ISSUING THE OFFER OF SALE (FORM A)

1. Do not delete or alter any part of the Offer of Sale (Form A).
2. Fill in the date, number of occupied and vacant rental units, combined total number of rental units, name of each tenant with each apartment number and the address of the housing accommodation. Each tenant must receive a separate Offer of Sale (Form A) addressed to him or her.
3. Due to the number of Offers of Sale involved in housing accommodations with five (5) or more rental units, the Rental Conversion and Sale Division requests that the owner, or the owner's agent, send only one (1) copy of the Offer of Sale (Form A) and a list of the tenants to whom the Offers of Sale were issued.
4. The asking price and the material terms of the sale must be stated in the Offer of Sale (Form A). The material terms include the type of financial arrangements, if any, the owner will accept at settlement. If the material terms do not fit in the space provided, attach a supplemental page listing those material terms to the Offer of Sale (Form A).
5. The address and telephone number of the owner, or the owner's agent, must be stated on the Offer of Sale (Form A).
6. The owner or the owner's agent must sign his or her full name on the Offer of Sale (Form A). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual's **name**, not a business name, must be on this line. The name of the business may be placed in the address area.

7. After a tenant organization has been registered, the owner or the owner's agent must send the tenant organization a copy of the third party sale contract in order to commence the fifteen (15) day right of first refusal time period.
8. Send each tenant the Offer of Sale (Form A) by **certified mail**. A copy of the Offer of Sale (Form A) must also be posted in conspicuous places in the common areas of the housing accommodation.
9. One (1) copy of the Offer of Sale (Form A) with a list of the tenants must be sent **by certified mail** to or **filed in person** at the Rental Conversion and Sale Division. **Do NOT send the Offer of Sale (Form A) by facsimile or email. Faxing or emailing an Offer of Sale is NOT proper delivery.**
10. **The owner or the owner's agent must certify that the Rental Conversion and Sale Division and each tenant were sent copies of the Offer of Sale (Form A) on the same day.** Fill in and sign the attached affidavit, and include the completed and signed affidavit to the Rental Conversion and Sale Division when the Offer of Sale (Form A) is sent or delivered. Attach a list of tenants to the Affidavit and label the list "Exhibit A."
11. If a tenant organization is formed, the owner or the owner's agent, must send or deliver to the Rental Conversion and Sale Division one (1) copy of the third party sale contract when it is sent to the tenant organization. A copy of the third party sale contract can be sent to the Rental Conversion and Sale Division along with the copy of the Offer of Sale (Form A). The Rental Conversion and Sale Division's address and telephone numbers are listed below and on the Offer of Sale (Form A).
12. The District's Opportunity to Purchase Amendment Act of 2008, D.C. Law 17-286, effective Dec. 24, 2008, codified at D.C. Official Code § 42-3404.31 (the "DCOP Act") (2009), requires a housing accommodation owner to offer the property for sale to the Mayor of the District of Columbia. An owner must offer the housing accommodation for sale to the Mayor if 25% or more of the rental units are "affordable units" under the DCOP Act. For further information, please contact the Rental Conversion and Sale Division.

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

AFFIDAVIT OF DELIVERY OF OFFER OF SALE WITH A THIRD PARTY CONTRACT
FOR HOUSING ACCOMMODATIONS CONSISTING OF MORE THAN 1 RENTAL UNIT

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

1. That on _____ at _____ a.m. / p.m.
[circle one], I delivered envelopes addressed to each tenant identified on the list attached to this Affidavit as **Exhibit A** to a U.S. Postal Service employee at the U.S. Post Office located at _____, with proper postage affixed for delivery by certified mail, and containing a true, correct and complete copy of the Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address;

2. I posted a true, correct and complete copy of the Offer of Sale dated _____ in a conspicuous place in common areas of the housing accommodation;

3. That on _____ at _____ a.m. / p.m.
[circle one], I [check only one]

☐ **hand-delivered** a copy of the attached true, correct and complete Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; **OR**

☐ **delivered by certified mail** a copy of the attached true, correct and complete Offer of Sale dated _____ and a complete copy of the ratified third party contract for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; and

4. I hereby certify that the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division and each tenant listed on Exhibit A of this Affidavit were provided copies of the Offer of Sale **on the same day**.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, 2001 ed., as amended, that the foregoing representations and statements are true and correct.

Date_____
Signature_____
Print Name

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

OFFER OF SALE & TENANT OPPORTUNITY TO PURCHASE WITH A THIRD PARTY
SALE CONTRACT FOR HOUSING ACCOMMODATIONS WITH FIVE OR MORE
RENTAL UNITS

FIVE OR MORE RENTAL UNITS

DATE: _____

Number of Occupied Rental Units _____

Number of Vacant Rental Units _____

BY CERTIFIED MAIL

COMBINED TOTAL NUMBER OF RENTAL UNITS _____

Dear _____:

This is to advise you of the owner's offer to sell the housing accommodation in which you live located at _____. Washington, D.C. _____. The total number of rental units in the housing accommodation is: _____.

1. OFFER OF SALE

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this housing accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)) (the "Act"). This Offer of Sale also describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. ACCEPTANCE PERIOD

If you wish to respond to this Offer of Sale, any response must be made by a tenant organization. A tenant organization must be registered with the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division. A tenant organization registration application must be notarized and include: (1) a written statement accepting the owner's offer to sell the housing accommodation; (2) a list of tenant members representing the majority of the heads of households in the housing accommodation as of the time of registration; (3) information regarding the elected officers; and (4) copies of the tenant organization articles of incorporation, certification of incorporation and the bylaws. The tenant organization registration application must be either sent by certified mail or hand-delivered to the owner and the Rental Conversion and Sale Division.

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

The tenants must organize a tenant organization with the legal capacity to hold real property, and shall either send by first class mail or hand-deliver the tenant organization registration application to **both** the owner and the Rental Conversion and Sale Division on or before the forty-fifth (45th) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

If a tenant organization already exists in a form desired by the tenants, the tenant organization must send **both** the owner and the Rental Conversion and Sale Division the tenant organization registration application by first class mail or hand-delivery on or before the thirtieth (30th) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

If the tenants fail to organize and either send by first class mail or hand-deliver the tenant organization registration application to **both** the owner and the Rental Conversion and Sale Division within the applicable time period, the tenants' rights under this Offer of Sale will expire.

3. NEGOTIATION

If a tenant organization properly submits a tenant organization registration application in accordance with the above paragraphs, the tenant organization has a minimum of one hundred twenty (120) days to ratify a sale contract with the owner.

4. INFORMATION

Within seven (7) days of receiving a written request for the information, the owner shall provide the tenant organization with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants, and a list of vacant rental units.

5. PRICE AND MATERIAL TERMS

The asking price for the housing accommodation is \$_____. The tenant organization must be informed of the type of financial arrangements, if any, the owner will accept at settlement. The owner may not require that the tenant organization prove financial ability to enter into a sale contract. However, in the event the third party sale contract provides for deferred purchase money financing, the owner may require that prior to settlement, the tenant organization prove (either alone or in conjunction with a third party) the ability to pay back financing before the owner grants the tenant organization deferred purchase money financing. The material terms of the sale for the tenant organization are as follows:

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

-
- ☐ Check here **ONLY** if a separate page of material terms is attached.
- ☐ **Optional:** check here only if a copy of the ratified third party contract is attached.

6. DEPOSIT

At the time of contracting, the tenant organization is required to deposit no more than five (5) percent of the contract sale price. This deposit, with interest accrued thereon, is refundable in case there is a good faith inability to perform under the sale contract.

7. SETTLEMENT TIME

If the tenant organization decides to purchase, and the owner accepts the offer, the tenant organization will have a minimum of one hundred twenty (120) days to secure financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within two hundred forty (240) days after the date the contract is ratified, the owner will provide the tenant organization with an extension of time consistent with the written estimate. If the tenant organization's articles of incorporation provide by the date the contract is ratified that the purpose of the tenant organization is to convert the housing accommodation to non-profit housing cooperative with appreciation of share value limited to a maximum of an annual rate of inflation, the tenant organization will have a minimum of one hundred eighty (180) days after the date the contract is ratified to secure financing or financial assistance.

8. THIRD PARTY SALE CONTRACT AND RIGHT OF FIRST REFUSAL

As of this date, the owner **has** accepted a third party sale contract to sell the housing accommodation to another party. If a tenant organization is formed and registered, the owner will send a copy of the ratified sale contract to the tenant organization. The tenant organization will have an additional fifteen (15) days (right of first refusal) to match the third party sale contract. If a valid tenant organization registration application is filed prior to the deadlines given in Section 2 of this Offer of Sale, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

9. NEW OFFER OF SALE

You will be issued a new Offer of Sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to you or

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within three hundred sixty (360) days from the date of this Offer of Sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Act.

10. WAIVER

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer of Sale, if you and the other tenants form a tenant organization and comply with the statutory requirements as outlined in this Offer of Sale, the tenant organization may waive any other tenants' rights under the Act in exchange for any consideration which it finds acceptable. Any waiver of the rights of a tenant organization must be in writing and signed by an authorized tenant organization officer on behalf of the tenant organization. The owner will provide the Rental Conversion and Sale Division with a copy of the signed waiver documents.

11. ASSISTANCE

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

FORM A

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

If you have any questions regarding this matter, please call _____ (insert contact name) on telephone number (_____)_____.

THIS OFFER OF SALE IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may sign),

Owner's SIGNATURE

Owner's Agent's SIGNATURE

Owner's PRINTED Name

Owner's Agent's PRINTED Name

Owner's Address, City, State & Zip Code)

Owner's Agent's Address, City, State & Zip Code)

cc: 1 copy of the Offer of Sale, 1 copy of the third party sale contract, Affidavit and an Exhibit
A attachment by hand delivery or certified mail to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
AN OFFER OF SALE WITHOUT A THIRD PARTY SALE CONTRACT FOR A
SINGLE RENTED FAMILY HOUSE, SINGLE RENTED CONDOMINIUM UNIT OR
SINGLE RENTED COOPERATIVE UNIT**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to an Offer of Sale (Form B) for the sale of a single rented family house, single rented residential condominium unit or single rented residential cooperative unit. This Offer of Sale (Form B) is used when an owner gives the tenants an opportunity to purchase **before** the owner has accepted (ratified) a third party sale contract for the housing accommodation.

INSTRUCTIONS FOR ISSUING THE OFFER OF SALE (FORM B)

1. Do not delete or alter any part of the Offer of Sale (Form B).
2. Fill in the date, name of each tenant, and indicate whether the housing accommodation is a single family house, a single condominium unit (include the unit number) or single cooperative unit (include the unit number). Each tenant must receive a separate Offer of Sale (Form B) addressed to him or her.
3. The selling price and the material terms of the sale must be stated in the Offer of Sale (Form B). The material terms include the type of financial arrangements, if any, the owner will accept at settlement. If the material terms do not fit in the space provided, attach a supplemental page listing those additional material terms to the Offer of Sale (Form B).
4. The address and telephone number of the owner, or the owner's agent, must be stated on the Offer of Sale (Form B).
5. The owner or the owner's agent, must sign his or her full name on the Offer of Sale (Form B). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual's **name**, not a business name, must be on this line. The name of the business may be placed in the address area.
6. When the owner ratifies a third party sale contract, the owner or the owner's agent must send each tenant a notice, called a First Right of Refusal (Form C), along with a copy of the ratified third party sale contract. See "Right of First Refusal" (Form C).
7. Send each tenant the Offer of Sale (Form B) by **certified mail**. (Faxing or emailing the Offer of Sale (Form B) is **NOT** proper delivery).

8. One (1) copy of the Offer of Sale (Form B) must be sent **by certified mail** to or **filed in person** at the Rental Conversion and Sale Division. **Do NOT send the Offer of Sale (Form B) by facsimile or email.** Faxing or emailing an Offer of Sale is NOT proper delivery.
9. **The owner or the owner's agent must certify that the Rental Conversion and Sale Division and each tenant were sent copies of the Offer of Sale (Form B) on the same day.** Fill in and sign the attached affidavit, and include the completed and signed affidavit to the Rental Conversion and Sale Division when the Offer of Sale (Form B) is sent or delivered. Attach a list of tenants to the Affidavit and label the list "Exhibit A."

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

AFFIDAVIT OF DELIVERY OF OFFER OF SALE
WITHOUT A THIRD PARTY CONTRACT
FOR HOUSING ACCOMMODATIONS CONSISTING OF 1 RENTAL UNIT

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

1. That on _____ at _____ a.m. / p.m.
[circle one], I delivered envelopes addressed to each tenant identified on the list attached to this Affidavit as **Exhibit A** to a U.S. Postal Service employee at the U.S. Post Office located at _____, with proper postage affixed for delivery by certified mail, containing a true, correct and complete copy of the Offer of Sale dated _____ for the housing accommodation located at the above stated address;

2. That on _____ at _____ a.m. / p.m.
[circle one], I [check only one]

☐ **hand-delivered** a copy of the attached true, correct and complete Offer of Sale dated _____ for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; **OR**

☐ **delivered by certified mail** a copy of the attached true, correct and complete Offer of Sale dated _____ for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; and

3. I hereby certify that the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division and each tenant listed on Exhibit A of this Affidavit were provided copies of the Offer of Sale **on the same day**.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, 2001 ed., as amended, that the foregoing representations and statements are true and correct.

Date

Signature

Print Name

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE

OFFER OF SALE & TENANT OPPORTUNITY TO PURCHASE WITHOUT
A THIRD PARTY SALE CONTRACT FOR A SINGLE RENTED FAMILY HOUSE,
A SINGLE RENTED CONDOMINIUM UNIT OR A SINGLE RENTED COOPERATIVE
UNIT

BY CERTIFIED MAIL

DATE: _____

Dear _____:

This is to advise you of the owner's offer to sell the

(Check one)

- ☐ Single Family House
☐ Condominium Unit Number _____
☐ Cooperative Unit Number _____

in which you live located at _____,
Washington, D.C. _____.

1. OFFER OF SALE

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this housing accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)) (the "Act"). This Offer of Sale also describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. ACCEPTANCE PERIOD

If you wish to respond to this Offer of Sale, you shall provide **both** the owner and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division with a written statement accepting the owner's offer to sell the housing accommodation either by certified mail or hand delivery on or before the thirtieth (30th) day after you received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of this Offer of Sale, whichever date is later.

If you fail to provide a written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division during the thirty (30) day response time period, your rights under this Offer of Sale will expire, except as to the right of first refusal discussed below.

3. INFORMATION

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE

Within seven (7) days of receiving a written request for the information, the owner shall provide you with copies of: (1) a floor plan of the housing accommodation, if available; (2) if floor plan is not available, owner must tell you in writing; (3) an itemized list of monthly operation expenses; (4) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (5) the most recent rent roll, listing of tenants and a list of vacant rental units.

4. NEGOTIATION

If you properly submit your written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division, you have a minimum of sixty (60) days to ratify a sale contract with the owner.

5. PRICE AND MATERIAL TERMS

The asking price for the housing accommodation is \$_____. You must be informed of the type of financial arrangements, if any, the owner will accept at settlement. The owner may not require that you prove financial ability to enter into a sale contract. However, in the event the third party sale contract provides for deferred purchase money financing, the owner may require that prior to settlement, you prove (either alone or in conjunction with a third party) the ability to pay back financing before the owner grants deferred purchase money financing. The material terms of the sale for the tenant(s) are as follows:

☐ Check here ONLY if a separate page of material terms is attached.

6. DEPOSIT

At the time of contracting, you are required to deposit no more than five (5%) percent of the contract sale price. This deposit, with interest accrued thereon, is refundable in case there is a good faith inability to perform under the sale contract.

7. SETTLEMENT TIME

If you decide to purchase and the owner accepts your offer, you will have a minimum of sixty (60) days to secure financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within ninety (90) days after the sale contract is ratified, the owner will provide you with an extension of time consistent with the written estimate.

8. THIRD PARTY SALE CONTRACT AND RIGHT OF FIRST REFUSAL

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE

As of this date, the owner has **not** accepted a sale contract to sell the housing accommodation to another party. If the owner accepts a third party sale contract, the owner will send you a copy of the ratified contract and a Right of First Refusal to each tenant. You will have an additional fifteen (15) days (right of first refusal) to match the third party sale contract, even if you do not submit a written statement accepting the owner's offer to sell the housing accommodation or if you reject this Offer of Sale. If a written statement accepting the owner's offer to sell the housing accommodation is submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

9. NEW OFFER OF SALE

You will be issued a new Offer of Sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to you or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within one hundred eighty (180) days from the date of this Offer of Sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Act.

10. WAIVER

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer of Sale, you may waive any of your other tenant's rights in exchange for any consideration which you find acceptable. You must sign a written statement waiving any of your tenant's rights. The owner will provide the Rental Conversion and Sale Division with a copy of the signed waiver document.

11. ASSISTANCE

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

If you have any questions regarding this matter, please call _____ (insert contact name) on telephone number (_____) _____.

THIS IS OFFER OF SALE IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may sign),

Owner's SIGNATURE

Owner's Agent's SIGNATURE

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE

Owner's PRINTED Name

Owner's Agent's PRINTED Name

Owner's Address, City, State & Zip Code)

Owner's Agent's Address, City, State & Zip
Code)

cc: 1 copy of the Offer of Sale, Affidavit and an Exhibit A
attachment by certified mail or hand delivery to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
AN OFFER OF SALE WITHOUT A THIRD PARTY SALE CONTRACT FOR
TWO (2), THREE (3) OR FOUR (4) RENTAL UNIT HOUSING ACCOMMODATIONS**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

The instructions apply to an Offer of Sale (Form B) for the sale of a two (2), three (3) or four (4) residential rental unit housing accommodation. This Offer of Sale is used when an owner gives the tenants an opportunity to purchase **before** the owner has accepted (ratified) a third party sale contract for the housing accommodation.

In order to determine whether the housing accommodation is 2 to 4 rental units, all rental units in the housing accommodation are counted. The occupied rental units as well as vacant rental units must be included in the total number of rental units for the housing accommodation.

INSTRUCTIONS FOR ISSUING THE OFFER OF SALE (FORM B)

1. Do not delete or alter any part of the Offer of Sale (Form B).
2. Fill in the date, number of occupied and vacant rental units, combined total number of rental units, name of each tenant with each apartment number and the address of the housing accommodation. Each tenant must receive a separate Offer of Sale (Form B) addressed to him or her.
3. Due to the number of Offers of Sale involved in housing accommodations with 2 to 4 rental units, the Rental Conversion and Sale Division requests that the owner or the owner's agent send only one (1) copy of the Offer of Sale with a list of the tenants to the Rental Conversion and Sale Division
4. The asking price and the material terms of the sale must be stated in the Offer of Sale (Form B). The material terms include the type of financial arrangements, if any, the owner will accept at settlement. If the material terms do not fit in the space provided, attach a supplemental page listing those material terms to the Offer of Sale (Form B).
5. The address and telephone number of the owner, or the owner's agent, must be stated on the Offer of Sale (Form B).
6. The owner, or the owner's agent, must sign his or her full name on the Offer of Sale (Form B). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual **name**, not a business name, must be on this line. The name of the business may be placed in the address area.

7. When the owner ratifies a third party sale contract, the owner or the owner's agent must send each tenant a notice, called a Right of First Refusal (Form C), along with a copy of the ratified third party sale contract. See "Right of First Refusal" (Form C).
8. Send each tenant the Offer of Sale (Form B) and a copy of the third party sale contract by **certified mail**. A copy of the Offer of Sale (Form B) must also be posted in conspicuous places in the common areas of the housing accommodation.
9. One (1) copy of the Offer of Sale (Form B) with a list of the tenants must be sent **by certified mail** to or **filed in person** at the Rental Conversion and Sale Division. **Do NOT send the Offer of Sale (Form B) by facsimile or email.** Faxing or emailing an Offer of Sale is NOT proper delivery.
10. **The owner or the owner's agent must certify that the Rental Conversion and Sale Division and each tenant were sent copies of the Offer of Sale (Form B) on the same day.** Fill in and sign the attached affidavit, and include the completed and signed affidavit to the Rental Conversion and Sale Division when the Offer of Sale (Form B) is sent or delivered. Attach a list of tenants to the Affidavit and label the list "Exhibit A."

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

AFFIDAVIT OF DELIVERY OF OFFER OF SALE
WITHOUT A THIRD PARTY CONTRACT
FOR HOUSING ACCOMMODATIONS CONSISTING OF MORE THAN 1 RENTAL UNIT

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

1. That on _____ at _____ a.m. / p.m.
[circle one], I delivered envelopes addressed to each tenant identified on the list attached to this Affidavit as **Exhibit A** to a U.S. Postal Service employee at the U.S. Post Office located at _____, with proper postage affixed for delivery by certified mail, containing a true, correct and complete copy of the Offer of Sale dated _____ for the housing accommodation located at the above stated address;

2. I posted a true, correct and complete copy of the Offer of Sale dated _____ in a conspicuous place in common areas of the housing accommodation;

3. That on _____ at _____ a.m. / p.m.
[circle one], I [check only one]

☐ **hand-delivered** a copy of the attached true, correct and complete Offer of Sale dated _____ for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; **OR**

☐ **delivered by certified mail** a copy of the attached true, correct and complete Offer of Sale dated _____ for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; and

4. I hereby certify that the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division and each tenant listed on Exhibit A of this Affidavit were provided copies of the Offer of Sale **on the same day**.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, 2001 ed., as amended, that the foregoing representations and statements are true and correct.

Date

Signature

Print Name

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

OFFER OF SALE & TENANT OPPORTUNITY TO PURCHASE WITHOUT A THIRD
PARTY SALE CONTRACT FOR HOUSING ACCOMMODATIONS WITH
TWO, THREE OR FOUR RENTAL UNITS

UNITS

TWO, THREE OR FOUR RENTAL

DATE: _____

Number of Occupied Rental Units _____

Number of Vacant Rental Units _____

BY CERTIFIED MAIL

COMBINED TOTAL NUMBER OF RENTAL UNITS _____

Dear _____:

This is to advise you of the owner's offer to sell the housing accommodation in which you live located at _____, Washington, D.C. _____. The total number of rental units in the housing accommodation is: _____.

1. OFFER OF SALE

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this housing accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)) (the "Act"). This Offer of Sale also describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. ACCEPTANCE PERIOD

Any reference to a "tenant group" means the tenants from more than one rental unit are acting together. Any reference to an "individual tenant" means all of the tenants (if more than one) from a single rental unit who sign a written statement accepting the owner's offer to sell the housing accommodation.

If you wish to respond to this Offer of Sale, the tenants acting together shall provide **both** the owner and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division with a **joint** written statement accepting the owner's offer to sell the housing accommodation either by certified mail or hand delivery on or before the fifteenth (15th) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

After the fifteen (15) day period, if the tenants acting together do not submit a written statement accepting the owner's offer to sell the housing accommodation, then you, as an individual tenant, have seven (7) days to provide **both** the owner and the Rental Conversion and Sale Division with a written statement accepting the owner's offer to sell the housing accommodation, either by hand-delivery or by certified mail on or before the twenty-second (22nd) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

If the tenants acting together or you, acting individually, do not provide a written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division within the fifteen (15) day and seven (7) day response time periods, the tenants' rights under this Offer of Sale will expire, except as to the right of first refusal as discussed below.

3. INFORMATION

Within seven (7) days of receiving a written request for the information, the owner shall provide you with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants and a list of vacant rental units.

4. NEGOTIATION

If a tenant group or an individual tenant properly submits a written statement accepting the owner's offer to sell the housing accommodation to the owner and the Rental Conversion and Sale Division, upon the owner's receipt, the tenant group or an individual tenant has a minimum of ninety (90) days to ratify a sale contract with the owner.

If at the end of the ninety (90) day negotiation time period, or any extension thereof, a tenant group has not entered into a sale contract with the owner, the owner will provide an additional thirty (30) day period, during which any one (1) of the individual tenants may contract with the owner for the purchase of the housing accommodation.

If the owner receives a written statement accepting the owner's offer to sell the housing accommodation from more than one individual tenant, the owner will negotiate with each tenant separately, or jointly if you agree to negotiate jointly. However, if the owner is required to negotiate with more than one tenant, the owner will decide which sale contract is more favorable without liability to the other tenant(s).

5. PRICE AND MATERIAL TERMS

The asking price for the housing accommodation is \$_____. You

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

must be informed of the type of financial arrangements, if any, the owner will accept at settlement. The owner may not require that a tenant group or an individual tenant prove financial ability to enter into a sale contract. However, in the event the third party sale contract provides for deferred purchase money financing, the owner may require that prior to settlement, you prove (either alone or in conjunction with a third party) the ability to pay back financing before the owner grants a tenant group or an individual tenant deferred purchase money financing. The material terms of the sale for the tenants are as follows:

☐ Check here ONLY if a separate page of material terms is attached.

6. DEPOSIT

At the time of contracting, a tenant group or an individual tenant is required to deposit no more than five (5) percent of the contract sale price. This deposit, with interest accrued thereon, is refundable in case there is a good faith inability to perform under the sale contract.

7. SETTLEMENT TIME

If a tenant group or an individual tenant decides to purchase, and the owner accepts, the tenant group or the individual tenant has a minimum of ninety (90) days to secure financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within one hundred twenty (120) days after the sale contract is ratified, the owner will provide the tenant group or the individual tenant with an extension of time consistent with the written estimate.

8. THIRD PARTY SALE CONTRACT AND RIGHT OF FIRST REFUSAL

As of this date, the owner has **not** accepted a third party sale contract to sell the housing accommodation to another party. If the owner accepts a third party sale contract, the owner will send you a copy of the ratified third party sale contract and a Right of First Refusal to each tenant. You will have an additional fifteen (15) days (right of first refusal) to match the third party sale contract, even if you do not submit a written statement accepting the owner's offer to sell the housing accommodation or if you reject this Offer of Sale. If a written statement accepting the owner's offer to sell the housing accommodation is submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

9. NEW OFFER OF SALE

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

You will be issued a new Offer of Sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to you or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within two hundred and forty (240) days from the date of this Offer of Sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Act.

10. WAIVER

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer of Sale, you may waive any other tenants' rights in exchange for any consideration which you find acceptable. You must sign a written statement waiving any of your tenants' rights. The owner will provide the Rental Conversion and Sale Division with a copy of the signed waiver document.

11. ASSISTANCE

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

If you have any questions regarding this matter, please call _____
(insert contact name) on telephone number () _____.

THIS IS OFFER OF SALE IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may sign),

Owner's SIGNATURE

Owner's Agent's SIGNATURE

Owner's PRINTED Name

Owner's Agent's PRINTED Name

Owner's Address, City, State & Zip Code)

Owner's Agent's Address, City, State & Zip Code)

cc: 1 copy of the Offer of Sale, Affidavit and an Exhibit A attachment

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

by hand delivery or certified mail to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
AN OFFER OF SALE WITHOUT A THIRD PARTY SALE CONTRACT FOR
FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATIONS**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to an Offer of Sale (Form B) for the sale of a five (5) or more residential rental unit housing accommodation. This Offer of Sale (Form B) is used when an owner gives the tenants an opportunity to purchase **before** the owner has accepted (ratified) a third party sale contract for the housing accommodation.

In order to determine whether the housing accommodation is five (5) or more rental units, all rental units in the housing accommodation are counted. The occupied rental units as well as vacant rental units must be included in the total number of rental units for the housing accommodation.

INSTRUCTIONS FOR ISSUING THE OFFER OF SALE (FORM B)

1. Do not delete or alter any part of the Offer of Sale (Form B).
2. Fill in the date, number of occupied and vacant rental units, combined total number of rental units, name of each tenant with each apartment number and the address of the housing accommodation. Each tenant must receive a separate Offer of Sale (Form B) addressed to him or her.
3. Due to the number of Offers of Sale involved in housing accommodations with five (5) or more rental units, the Rental Conversion and Sale Division requests that the owner, or the owner's agent, send only one (1) copy of the Offer of Sale (Form B) and a list of the tenants to whom the Offers of Sale were issued.
4. The asking price and the material terms of the sale must be stated in the Offer of Sale (Form B). The material terms include the type of financial arrangements, if any, the owner will accept at settlement. If the material terms do not fit in the space provided, attach a supplemental page listing those material terms to the Offer of Sale (Form B).
5. The address and telephone number of the owner, or the owner's agent, must be stated on the Offer of Sale (Form B).
6. The owner or the owner's agent must sign his or her full name on the Offer of Sale (Form B). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual's **name**, not a business name, must be on this line. The name of the business may be placed in the address area.

7. After a tenant organization has been registered, if there is a ratified third party sale contract, or when a third party sale contract is ratified, the owner or the owner's agent must send the tenant organization a copy of the third party sale contract in order to commence the fifteen (15) day right of first refusal time period. See "Right of First Refusal" (Form C).
8. Send each tenant the Offer of Sale (Form B) by **certified mail**. A copy of the Offer of Sale (Form B) must also be posted in conspicuous places in the common areas of the housing accommodation.
9. One (1) copy of the Offer of Sale (Form B) with a list of the tenants must be sent **by certified mail** to or **filed in person** at the Rental Conversion and Sale Division. **Do NOT send the Offer of Sale (Form B) by facsimile or email. Faxing or emailing an Offer of Sale is NOT proper delivery.**
10. **The owner or the owner's agent must certify that the Rental Conversion and Sale Division and each tenant were sent copies of the Offer of Sale (Form B) on the same day.** Fill in and sign the attached affidavit, and include the completed and signed affidavit to the Rental Conversion and Sale Division when the Offer of Sale (Form A) is sent or delivered. Attach a list of tenants to the Affidavit and label the list "Exhibit A."
11. If a tenant organization is formed, the owner or the owner's agent, must send or deliver to the Rental Conversion and Sale Division one (1) copy of the third party sale contract when it is sent to the tenant organization. A copy of the third party sale contract can be sent to the Rental Conversion and Sale Division along with the copy of the Offer of Sale (Form B). The Rental Conversion and Sale Division's address and telephone numbers are listed below and on the Offer of Sale (Form B).
12. The District's Opportunity to Purchase Amendment Act of 2008, D.C. Law 17-286, effective Dec. 24, 2008, codified at D.C. Official Code § 42-3404.31 (the "DCOP Act") (2009), requires a housing accommodation owner to offer the property for sale to the Mayor of the District of Columbia. An owner must offer the housing accommodation for sale to the Mayor if 25% or more of the rental units are "affordable units" under the DCOP Act. For further information, please contact the Rental Conversion and Sale Division.

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

AFFIDAVIT OF DELIVERY OF OFFER OF SALE
WITHOUT A THIRD PARTY CONTRACT
FOR HOUSING ACCOMMODATIONS CONSISTING OF MORE THAN 1 RENTAL UNIT

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

1. That on _____ at _____ a.m. / p.m.
[circle one], I delivered envelopes addressed to each tenant identified on the list attached to this Affidavit as **Exhibit A** to a U.S. Postal Service employee at the U.S. Post Office located at _____, with proper postage affixed for delivery by certified mail, containing a true, correct and complete copy of the Offer of Sale dated _____ for the housing accommodation located at the above stated address;

2. I posted a true, correct and complete copy of the Offer of Sale dated _____ in a conspicuous place in common areas of the housing accommodation;

3. That on _____ at _____ a.m. / p.m.
[circle one], I [check only one]

☐ **hand-delivered** a copy of the attached true, correct and complete Offer of Sale dated _____ for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; **OR**

☐ **delivered by certified mail** a copy of the attached true, correct and complete Offer of Sale dated _____ for the housing accommodation located at the above stated address and a list of the tenants identified on the list attached to this Affidavit as **Exhibit A** to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division; and

4. I hereby certify that the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division and each tenant listed on Exhibit A of this Affidavit were provided copies of the Offer of Sale **on the same day**.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code § 22-2405, 2001 ed., as amended, that the foregoing representations and statements are true and correct.

Date

Signature

Print Name

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

OFFER OF SALE & TENANT OPPORTUNITY TO PURCHASE WITHOUT A THIRD
PARTY SALE CONTRACT FOR HOUSING ACCOMMODATIONS WITH FIVE OR MORE
RENTAL UNITS

FIVE OR MORE RENTAL UNITS

DATE: _____

Number of Occupied Rental Units _____

Number of Vacant Rental Units _____

BY CERTIFIED MAIL

COMBINED TOTAL NUMBER OF RENTAL UNITS _____

Dear _____:

This is to advise you of the owner's offer to sell the housing accommodation in which you live located at _____. Washington, D.C. _____. The total number of rental units in the housing accommodation is: _____.

1. OFFER OF SALE

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this housing accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)) (the "Act"). This Offer of Sale also describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. ACCEPTANCE PERIOD

If you wish to respond to this Offer of Sale, any response must be made by a tenant organization. A tenant organization must be registered with the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division. A tenant organization registration application must be notarized and include: (1) a written statement accepting the owner's offer to sell the housing accommodation; (2) a list of tenant members representing the majority of the heads of households in the housing accommodation as of the time of registration; (3) information regarding the elected officers; and (4) copies of the tenant organization articles of incorporation, certification of incorporation and the bylaws. The tenant organization registration application must be either sent by certified mail or hand-delivered to the owner and the Rental Conversion and Sale Division.

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

The tenants must organize a tenant organization with the legal capacity to hold real property, and shall either send by first class mail or hand-deliver the tenant organization registration application to **both** the owner and the Rental Conversion and Sale Division on or before the forty-fifth (45th) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

If a tenant organization already exists in a form desired by the tenants, the tenant organization must send **both** the owner and the Rental Conversion and Sale Division the tenant organization registration application by first class mail or hand-delivery on or before the thirtieth (30th) day after you and the other tenants received this Offer of Sale, or the Rental Conversion and Sale Division's receipt of a copy of this Offer of Sale, whichever date is later.

If the tenants fail to organize and either send by first class mail or hand-deliver the tenant organization registration application to **both** the owner and the Rental Conversion and Sale Division within the applicable time period, the tenants' rights under this Offer of Sale will expire.

3. NEGOTIATION

If a tenant organization properly submits a tenant organization registration application in accordance with the above paragraphs, the tenant organization has a minimum of one hundred twenty (120) days to ratify a sale contract with the owner.

4. INFORMATION

Within seven (7) days of receiving a written request for the information, the owner shall provide the tenant organization with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants, and a list of vacant rental units.

5. PRICE AND MATERIAL TERMS

The asking price for the housing accommodation is \$_____. The tenant organization must be informed of the type of financial arrangements, if any, the owner will accept at settlement. The owner may not require that the tenant organization prove financial ability to enter into a sale contract. However, in the event the third party sale contract provides for deferred purchase money financing, the owner may require that prior to settlement, the tenant organization prove (either alone or in conjunction with a third party) the ability to pay back financing before the owner grants the tenant organization deferred purchase money financing. The material terms of the sale for the tenant organization are as follows:

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

☐ Check here **ONLY** if a separate page of material terms is attached.

6. DEPOSIT

At the time of contracting, the tenant organization is required to deposit no more than five (5) percent of the contract sale price. This deposit, with interest accrued thereon, is refundable in case there is a good faith inability to perform under the sale contract.

7. SETTLEMENT TIME

If the tenant organization decides to purchase, and the owner accepts the offer, the tenant organization will have a minimum of one hundred twenty (120) days to secure financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within two hundred forty (240) days after the date the contract is ratified, the owner will provide the tenant organization with an extension of time consistent with the written estimate. If the tenant organization's articles of incorporation provide by the date the contract is ratified that the purpose of the tenant organization is to convert the housing accommodation to non-profit housing cooperative with appreciation of share value limited to a maximum of an annual rate of inflation, the tenant organization will have a minimum of one hundred eighty (180) days after the date the contract is ratified to secure financing or financial assistance.

8. THIRD PARTY SALE CONTRACT AND RIGHT OF FIRST REFUSAL

As of this date, the owner has **not** accepted a third party sale contract to sell the housing accommodation to another party. If a tenant organization is formed and registered, and the owner accepts a third party sale contract, the owner will send a copy of the ratified third party sale contract and a Right of First Refusal to the tenant organization. The tenant organization will have an additional fifteen (15) days (right of first refusal) to match the third party sale contract. If a valid tenant organization registration application is filed prior to the deadlines given in Section 2 of this Offer of Sale, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

9. NEW OFFER OF SALE

You will be issued a new Offer of Sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to you or for other terms which would constitute bargaining without good faith. In addition, if the owner

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

has not contracted or sold this housing accommodation within three hundred sixty (360) days from the date of this Offer of Sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Act.

10. WAIVER

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer of Sale, if you and the other tenants form a tenant organization and comply with the statutory requirements as outlined in this Offer of Sale, the tenant organization may waive any other tenants' rights under the Act in exchange for any consideration which it finds acceptable. Any waiver of the rights of a tenant organization must be in writing and signed by an authorized tenant organization officer on behalf of the tenant organization. The owner will provide the Rental Conversion and Sale Division with a copy of the signed waiver documents.

11. ASSISTANCE

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

If you have any questions regarding this matter, please call _____ (insert contact name) on telephone number () _____.

FORM B

DO NOT DELETE OR ALTER ANY PART OF THIS OFFER OF SALE
POST A COPY IN THE HOUSING ACCOMMODATION

THIS OFFER OF SALE IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may sign),

Owner's SIGNATURE

Owner's Agent's SIGNATURE

Owner's PRINTED Name

Owner's Agent's PRINTED Name

Owner's Address, City, State & Zip Code)

Owner's Agent's Address, City, State & Zip
Code)

cc: 1 copy of the Offer of Sale, 1 Affidavit and an Exhibit A
attachment by hand delivery or certified mail to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
A RIGHT OF FIRST REFUSAL FOR A SINGLE RENTED FAMILY HOUSE, SINGLE
RENTED CONDOMINIUM UNIT OR SINGLE RENTED COOPERATIVE UNIT**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to a Right of First Refusal (Form C) for the sale of a single rented family house, single rented residential condominium unit or single rented residential cooperative unit. This Right of First Refusal (Form C) notifies tenants **after** the owner has accepted (ratified) a third party sale contract on the housing accommodation. **This Right of First Refusal (Form C) is used only when the owner has issued an Offer of Sale Without a Third Party Sale Contract (Form B).** The tenants have fifteen (15) days to match the ratified third party sale contract. The right of first refusal period commences **after** the end of the negotiation period.

INSTRUCTIONS FOR ISSUING THE RIGHT OF FIRST REFUSAL (FORM C)

1. Do not delete or alter any part of the Right of First Refusal (Form C).
2. Fill in the date, the name of each tenant, the housing accommodation address, the Offer of Sale (Form B) date, and the address and telephone number of the owner or owner's agent.
3. The owner or the owner's agent must sign his/her full name on the Right of First Refusal (Form C). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual **name**, not a business name, must be on this line. The name of the business may be placed in the address area.
4. Send the Right of First Refusal (Form C) and a copy of the third party sale contract to each tenant by first class mail. **(Faxing or emailing the Right of First Refusal (Form C) is NOT proper delivery.)**
5. Send a copy of the Right of First Refusal (Form C) and a copy of the third party sale contract to the Rental Conversion and Sale Division. The Rental Conversion and Sale Division's address and telephone numbers are listed below and on the Right of First Refusal (Form C).

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE

RIGHT OF FIRST REFUSAL FOR A SINGLE RENTED FAMILY HOUSE, SINGLE
RENTED CONDOMINIUM UNIT OR SINGLE RENTED COOPERATIVE UNIT

(Check one)

- ☐ Single Family House
☐ Condominium Unit Number _____
☐ Cooperative Unit Number _____

Date: _____

Dear _____:

Pursuant to Section 408 of the Rental Housing Conversion and Sale Act of 1980 (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)), as amended (the "Act"), the owner has enclosed a copy of the third party sale contract, dated _____, which the owner accepted (ratified) for the sale of the housing accommodation in which you reside at _____, Washington, D.C. _____.

In accordance with the Act, in addition to the statutory time periods of which you were notified in the owner's Offer of Sale Without a Third Party Sale Contract for a Single Family House, Single Rented Condominium Unit or Single Rented Cooperative Unit, dated _____, you have fifteen (15) days to match the **enclosed** third party sale contract. The fifteen (15) day time period starts at the end of the statutory sixty (60) day negotiation time period. If you did not send the owner and the Rental Conversion and Sale Division a written acceptance statement accepting the owner's offer to sell the housing accommodation or if the statutory sixty (60) days negotiation time period has expired, you will have fifteen (15) days from receipt of this Right of First Refusal to match the third party sale contract.

If you match the ratified third party sale contract and you sign a sale contract with the owner, you will have a minimum of sixty (60) days to obtain financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within ninety (90) days after the date of contracting, the owner will provide you with an extension of time consistent with the written estimate.

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE

If you have any questions regarding this matter, please contact _____
_____ (insert name) on telephone number () _____.

THIS RIGHT OF FIRST REFUSAL IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may
sign),

Owner's SIGNATURE_____
Owner's PRINTED Name_____
Owner's Address, City, State and Zip Code_____
Owner's Agent's SIGNATURE_____
Owner's Agent's PRINTED Name_____
Owner's Agents Address, City, State and Zip Code

cc: 1 copy of Right of First Refusal and a copy of the third party ratified sale contract to:
District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
A RIGHT OF FIRST REFUSAL
FOR TWO (2), THREE (3) OR FOUR (4) RENTAL UNIT HOUSING ACCOMMODATIONS**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to a Right of First Refusal (Form C) for the sale of a two, three or four (2, 3 or 4) residential rental unit housing accommodation. This Right of First Refusal (Form C) notifies tenants **after** the owner has accepted (ratified) a third party sale contract on the housing accommodation. **This Right of First Refusal (Form C) is used only when the owner has issued an Offer of Sale Without a Third Party Sale Contract (Form B).** The tenants have fifteen (15) days to match the ratified third party sale contract. The right of first refusal period commences **after** the end of the negotiation period.

INSTRUCTIONS FOR ISSUING THE RIGHT OF FIRST REFUSAL (FORM C)

1. Do not delete or alter any part of the Right of First Refusal (Form C).
2. Fill in the date, number of occupied and vacant rental units, the name of tenant(s), the housing accommodation address, the Offer of Sale (Form B) date, and the address and telephone number of the owner or owner's agent.
3. The owner or the owner's agent must sign his her full name on the Right of First Refusal (Form C). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual **name**, not a business name, must be on this line. The name of the business may be placed in the address area.
4. Send the Right of First Refusal (Form C) and a copy of the third party sale contract to each tenant by first class mail. (Faxing or emailing the Right of First Refusal (Form C) is **NOT** proper delivery.)
5. Send a copy of the Right of First Refusal (Form C) and a copy of the third party sale contract to the Rental Conversion and Sale Division. The Rental Conversion and Sale Division's address and telephone numbers are listed below and on the Right of First Refusal (Form C).

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS RIGHT OF FIRST REFUSAL
POST A COPY IN THE HOUSING ACCOMMODATION

RIGHT OF FIRST REFUSAL
FOR A TWO, THREE OR FOUR RENTAL UNIT HOUSING ACCOMMODATION

UNITSTWO, THREE OR FOUR RENTAL

DATE: _____

Number of Occupied Rental Units _____

Number of Vacant Rental Units _____

COMBINED TOTAL NUMBER OF RENTAL UNITS _____

Dear _____:

Pursuant to Section 408 of the Rental Housing Conversion and Sale Act of 1980 (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)), as amended (the "Act"), the owner has enclosed a copy of the third party sale contract, dated _____, which the owner accepted (ratified) for the sale of the housing accommodation in which you reside at _____, Washington, D.C. _____. The total number of rental units in the housing accommodation is: _____.

In accordance with the Act, in addition to the statutory time periods of which you were notified in the owner's Offer of Sale Without a Third Party Sale Contract for Two, Three or Four Rental Unit Housing Accommodations, dated _____, you have an additional fifteen (15) days to match the **enclosed** third party sale contract. The fifteen (15) day time period starts at the end of the statutory ninety (90) day negotiation time period. If you did not send the owner and the Rental Conversion and Sale Division a written acceptance statement of interest or if the statutory ninety (90) days negotiation time period has expired, you will have fifteen (15) days from receipt of this Right of First Refusal to match the third party sale contract.

If you match the ratified third party sale contract and you sign a sale contract with the owner, you will have a minimum of ninety (90) days to obtain financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within one hundred twenty (120) days after the date of contracting, the owner will provide you with an extension of time consistent with the written estimate.

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS RIGHT OF FIRST REFUSAL
POST A COPY IN THE HOUSING ACCOMMODATION

Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate
on (202) 719-6560.

If you have any questions regarding this matter, please contact _____
_____ (insert name) on telephone number () _____.

THIS RIGHT OF FIRST REFUSAL IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may
sign),

Owner's SIGNATURE

Owner's PRINTED Name

Owner's Address, City, State and Zip Code

Owner's Agent's SIGNATURE

Owner's Agent's PRINTED Name

Owner's Agents Address, City, State and Zip Code

cc: 1 copy of Right of First Refusal, a copy of the ratified third party contract and a list of
all tenants to:

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
A RIGHT OF FIRST REFUSAL
FOR FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATIONS**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to a Right of First Refusal (Form C) for the sale of a five (5) or more residential rental unit housing accommodation. The Right of First Refusal (Form C) notifies the registered tenant organization after the owner has accepted (ratified) a third party sale contract for the housing accommodation. **This Right of First Refusal (Form C) is used only when the owner has issued an Offer of Sale Without a Third Party Sale Contract (Form B) and the tenants formed a tenant organization and filed a tenant organization registration application.** The tenant organization has fifteen (15) days to match the ratified third party sale contract. The right of first refusal period commences after the end of the negotiation period.

INSTRUCTIONS FOR ISSUING THE RIGHT OF FIRST REFUSAL (FORM C)

1. Do not delete or alter any part of the Right of First Refusal (Form C).
2. Fill in the date, number of occupied and vacant rental units, the name and rental unit number of the tenant organization president, the housing accommodation address, the Offer of Sale (Form B) date, and the address and telephone number of the owner or owner's agent.
3. The owner or the owner's agent must sign his or her full name on the Right of First Refusal (Form C). For the purposes of legibility, a printed or typed name must also be placed on the appropriate line. An individual's name, not a business name, must be on this line. The name of the business may be placed in the address area.
4. Send the Right of First Refusal (Form C) and a copy of the third party sale contract to the tenant organization president by first class mail. (Faxing or emailing is NOT proper delivery.)
5. Send a copy of the Right of First Refusal (Form C) and a copy of the third party sale contract to the Rental Conversion and Sale Division. The Rental Conversion and Sale Division's address and telephone numbers are listed below and on the Right of First Refusal (Form C).

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS RIGHT OF FIRST REFUSAL
POST A COPY IN THE HOUSING ACCOMMODATION

RIGHT OF FIRST REFUSAL
FOR A FIVE OR MORE RENTAL UNIT HOUSING ACCOMMODATION

FIVE OR MORE RENTAL UNITS

DATE: _____

Number of Occupied Rental Units _____

Number of Vacant Rental Units _____

COMBINED TOTAL NUMBER OF RENTAL UNITS _____

Dear _____, Tenant Organization President:

Pursuant to Section 408 of the Rental Housing Conversion and Sale Act of 1980 (D.C. Law 3-86, § 42-3401.01 et. seq. (2001)), as amended (the "Act"), the owner has enclosed a copy of the third party sale contract, dated _____, which the owner accepted (ratified) for the sale of the housing accommodation in which you and the tenant organization members reside at _____, Washington, D.C. _____.

The total number of rental units in the housing accommodation is: _____.

In accordance with the Act, in addition to the statutory time periods of which you were notified in the owner's Offer of Sale & Tenant Opportunity to Purchase Without a Third Party Sale Contract for Housing Accommodations with Five or More Rental Units, dated _____,

the tenant organization has fifteen (15) days to match the **enclosed** ratified third party sale contract. The fifteen (15) day time period starts at the end of the one hundred twenty (120) day negotiation time period. If the tenant organization did not send the owner and the Rental Conversion and Sale Division a written statement accepting the owner's offer to sell the housing accommodation and a proper tenant organization registration application, or if the one hundred twenty (120) day negotiation time period has expired, the tenant organization has fifteen (15) days from receipt of this Right of First Refusal to match the ratified third party sale contract.

If the tenant organization matches the ratified third party sale contract and signs a sale contract with the owner, the tenant organization will have a minimum of one hundred (120) days to obtain financing or financial assistance and go to settlement for the purchase of this housing accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within two hundred forty (240) days after the date the contract is ratified, the owner will provide the tenant organization with an extension of time consistent with the written estimate.

If you would like information concerning technical and financial assistance, you may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS RIGHT OF FIRST REFUSAL

POST A COPY IN THE HOUSING ACCOMMODATION

Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-4610 or (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

If you have any questions regarding this matter, please call _____ (insert contact name) on telephone number () _____.

FORM C

DO NOT DELETE OR ALTER ANY PART OF THIS RIGHT OF FIRST REFUSAL
POST A COPY IN THE HOUSING ACCOMMODATION

THIS RIGHT OF FIRST REFUSAL IS NOT A NOTICE TO VACATE.

Sincerely (either Owner or Owner's Agent may
sign),

Owner's SIGNATURE

Owner's PRINTED Name

Owner's Address, City, State and Zip Code

Owner's Agent's SIGNATURE

Owner's Agent's PRINTED Name

Owner's Agents Address, City, State and Zip Code

cc: 1 copy of the Right of First Refusal, a copy of the third party sale contract and a list of all
tenants to:

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Revised Jan. 2010)

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN
A RENTED SINGLE FAMILY HOUSE, SINGLE RENTED CONDOMINIUM UNIT
OR SINGLE RENTED COOPERATIVE UNIT**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to a Notice of Transfer for the transfer of an interest in a housing accommodation, or of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns a rented single family house, a single rented condominium unit or single rented cooperative unit. This Notice of Transfer is used to notify tenants and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division (“**Rental Conversion and Sale Division**”) of the transfer of an ownership interest in a business entity.

1. **Rental Housing Conversion and Sale Act of 1980, as amended.**
 - a. **Sale Requirements.** The Rental Housing Conversion and Sale Act of 1980 (“**Sale Act**”) (D.C. Official Code 2001 ed., as amended, § 42-3401.01 et. seq.) (also known as the “tenant opportunity to purchase act” or “TOPA”) provides before an owner of a residential rental property, known as a “**housing accommodation**,” may sell, or issue a notice of intent to recover possession, or issue a notice to vacate, for purposes of demolition or discontinuance of housing use, the owner shall give tenants an opportunity to purchase the housing accommodation at a price and terms representing a bona fide offer of sale.
 - b. **Transfer Requirements.** If an owner intends to transfer an ownership interest in the title of a housing accommodation, or transfer an economic or ownership interest in a corporation, partnership, limited liability company, association, trust or other entity which owns a housing accommodation as its sole or principal asset, which results in the transfer of the housing accommodation as a sale, the owner shall give tenants and the Rental Conversion and Sale Division notice of the ownership interest or economic interest transfer. As outlined below, certain transfer transactions are exempt from the notice requirement.
2. **Notice of Transfer and Required Contents.** The Notice of Transfer must provide, at a minimum, a statement of a tenant’s rights under the Sale Act, an accurate description of the transfer, containing all material facts, the proposed transfer date, and the reason, if any, the owner claims the transfer is not a sale of the housing accommodation. The Notice of Transfer shall also: (i) be dated; (ii) clearly show the owner’s name, street delivery address, and telephone number; (iii) be signed by the owner; and (iv) contain a statement of tenant’s rights if the transfer constitutes a sale. The Notice of Transfer copy

designated for the Rental Conversion and Sale Division must also include an affidavit of service and list of all tenant names and addresses.

In addition to all other requirements, transfers of housing accommodations for the purposes of receiving tax benefits under title 26, section 42 of the United States Code or a comparable District of Columbia program, shall include a description of the applicable federal or District subsidy, and a description of the steps in the transaction taken by the owner or developer to receive the tax benefit.

NOTE: An owner's failure to provide a notice of transfer or a notice containing fraudulent or material misrepresentations or material omissions creates a rebuttable presumption that the transfer is in actuality a sale of the housing accommodation.

Any change in the transfer terms or agreement invalidating an exemption claim (discussed in Item 4. below) shall be reported in writing to the Rental Conversion and Sale Division and to the tenants.

3. **Notice of Transfer Service Requirements.**

- a. **Service Requirement.** The Notice of Transfer must be sent by registered or certified mail, return receipt requested, by commercial overnight delivery service which maintains proof of delivery, or by personal service at least ninety (90) days prior to the proposed transfer date to each tenant and the Rental Conversion and Sale Division. The Notice of Transfer shall be sent to tenants at their housing accommodation address unless the tenant notified the owner of a different notice address. **Faxing or emailing the Notice of Transfer is NOT proper delivery.**
- b. **Affidavit of Service to the Rental Conversion and Sale Division.** The owner must certify when the Notice of Transfer was sent to the tenant(s). An affidavit of service is attached to these instructions (See Appendix I). Fill in and sign the service affidavit, and attach the completed and signed affidavit to the Rental Conversion and Sale Division when the Notice of Transfer is sent or delivered. Attach a list of tenants to the Affidavit(s) and label the list "Exhibit A." **Faxing or emailing the Notice of Transfer is NOT proper delivery.**

4. **Transfers Which Are Not Sales Under the Sale Act.** The Sale Act expressly exempts certain transfers as not being sale transactions. For these transfer types, an owner is not required to offer a housing accommodation for sale to tenants. See Appendix II for the enumerated transfer exemptions. YOU MUST CONSULT SECTION 42-3404.02(c)(2) OF THE SALE ACT FOR FURTHER INFORMATION.

- a. **Transfers for Which Notice to Tenants Is Not Required.** The Sale Act provides that for transfers due to a distribution under a decedent's estate, tax sale or tax foreclosure, bankruptcy sale, a U.S. Securities and Exchange Commission registration statement, a revocable trust, court order or court-approved settlement or eminent domain, an owner shall provide a Notice of Transfer to the Rental

Conversion and Sale Division, but is not required to provide a Notice of Transfer to tenants.

- b. **No Notice Required for Foreclosure Transfers.** There is no Notice of Transfer requirement for transfers due to a foreclosure or deed in lieu of foreclosure.

NOTE: Ownership transfers due to foreclosure or deed in lieu of foreclosure transactions are subject to a tenant's occupancy rights, and a tenant may neither be served with a notice to vacate nor evicted due to a foreclosure or deed in lieu of foreclosure transfer.

5. **Tenant's Right to Challenge Transfer.** A tenant has a right to challenge the housing accommodation transfer. To challenge the transfer, a tenant must file a notice of intent to file for relief with the owner and the Rental Conversion and Sale Division indicating whether the tenant will make a challenge in the Superior Court of the District of Columbia or with the D.C. Office of Administrative Hearings ("**Notice of Intent to Petition for Relief**"). Within thirty (30) days after filing the Intent to File a Petition for Relief, the tenant must file a petition for relief either in the D.C. Superior Court or the D.C. Office of Administrative Hearings pursuant to either § 42-3405.03 or § 42-3405.03a of the Sale Act.

Note: If a tenant does not file a challenge within the prescribed timeframes, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

- a. **Tenant's Intent to File a Petition for Relief.**
- i. **If the Owner Does Not Claim a Transfer Exemption.** If the owner does not claim that the transfer is an exempt transaction under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within forty-five (45) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.
- ii. **If the Owner Claims a Transfer Exemption.** If the owner claims that the transfer is exempt under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within thirty (30) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.
- iii. **Service of the Intent to File a Petition for Relief.** A tenant challenging the transfer must deliver the Notice of Intent to Petition for Relief by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Rental Conversion and Sale Division and the owner on the same day. The owner's address is stated in the Notice of Transfer.

Faxing or emailing the Notice of Intent to Petition for Relief is NOT proper delivery.

- b. **Tenant's Petition for Relief.** Within thirty (30) days of the Rental Conversion and Sale Division's receipt of the tenant's Notice of Intent to Petition for Relief, a tenant must file a petition for relief under § 42-3405.03 or § 42-3405.03a of the Sale Act (**Petition**). The tenant must deliver a copy of the Petition to the owner by registered or certified mail, return receipt requested, or by personal service. **Faxing or emailing the Petition is NOT proper delivery.**

Note: If a tenant does not file a Petition within the prescribed timeframe, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Jan. 2010)

APPENDIX I

TO THE INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN
A RENTED SINGLE FAMILY HOUSE,
RENTED CONDOMINIUM UNIT OR RENTED COOPERATIVE UNIT

AFFIDAVIT OF MAILING OF NOTICE OF TRANSFER

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

That on _____ at _____ a.m. / p.m. [circle
one], I delivered envelopes addressed to the tenant(s) identified on the list attached to this

Affidavit as **Exhibit A** [Check only one]

☐ to a U.S. Postal Service employee at the U.S. Post Office located at _____
_____, with proper postage affixed for delivery by certified mail, or

☐ to a commercial carrier, _____ (insert name), which
maintains proof of delivery, or

☐ by personal service to _____ (insert name),

and containing a true, correct and complete copy of the Notice of Transfer dated _____
for the housing accommodation located at the above stated address.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code 2001
ed., as amended, § 22-2405, that the foregoing representations and statements are true and
correct.

Date_____
Signature_____
Print Name

APPENDIX II

**TO THE
INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN
A RENTED SINGLE FAMILY HOUSE,
RENTED CONDOMINIUM UNIT OR RENTED COOPERATIVE UNIT**

The Sale Act expressly exempts certain transfers as not being sale transactions. For these transfer types, an owner is not required to offer a housing accommodation for sale to tenants. **THE FOLLOWING IS A LIST OF EXEMPTIONS PURSUANT TO D.C. OFFICIAL CODE § 42-3404.02(c)(2). YOU MUST CONSULT D.C. OFFICIAL CODE § 42-3404.02(c)(2) FOR FURTHER INFORMATION AND THE COMPLETE LIST OF EXEMPTIONS.**

Any change in the transfer terms or agreement invalidating an exemption claim shall be reported in writing to the Rental Conversion and Sale Division and to the tenants.

- a. D.C. Official Code § 42-3404.02(c)(2)(A), Transfers by a Decedent's Estate. A transfer, even though for consideration, by a decedent's estate to members of the decedent's family if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity. "Members of the decedent's family" means: (i) the decedent's surviving spouse, or domestic partner; (ii) the decedent's lineal descendants, or a lineal descendant's spouse; (iii) trust for the primary benefit of the persons referred to in (ii); and (iii) a partnership, corporation, or other entity controlled by the individuals referred to (i) and (ii).
- b. D.C. Official Code § 42-3404.02(c)(2)(B), Intrafamilial Transfers. An inter-vivos transfer, even though for consideration, between spouses, parent and child, siblings, grandparent and grandchild, or domestic partners.
- c. D.C. Official Code § 42-3404.02(c)(2)(C), Transfers By or Under a Bona Fide Mortgage or Bona Fide Deed of Trust. A transfer of legal title or an interest in an entity holding legal title to a housing accommodation pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage.
- d. D.C. Official Code § 42-3404.02(c)(2)(D), Transfers Due to Tax Sale or Tax Foreclosure. A tax sale or transfer pursuant to tax foreclosure.
- e. D.C. Official Code § 42-3404.02(c)(2)(E), Transfers Pursuant to Bankruptcy. Bankruptcy sale.

- f. D.C. Official Code § 42-3404.02(c)(2)(F), Transfers under SEC Registration Statement. Any transaction involving accommodations otherwise subject thereto expressly contemplated by a registration statement filed with the Securities and Exchange Commission prior to February 22, 1994.
- g. D.C. Official Code § 42-3404.02(c)(2)(G), Transfers Due to Change in Business Form. Any transfer of a property directly caused by a change in the form of the entity owning the property; provided, that the transfer is without consideration, including a transfer of interests in an entity to a limited liability company as contemplated by D.C. Official Code § 29-1013.
- h. D.C. Official Code § 42-3404.02(c)(2)(H), Transfer of Interests in a Partnership of Limited Liability Company to Admit Partners or Investor Members. The transfer of interests in a partnership or limited liability company that owns an accommodation as its sole or principal asset; provided, that the sole purpose of the transfer is to admit one or more limited partners or investor members who will make capital contributions and receive tax benefits pursuant to title 26, § 42 of the United States Code, or a comparable District program.
- i. D.C. Official Code § 42-3404.02(c)(2)(H-i), Transfers Relating to the Woodward Building. A conveyance or re-conveyance for a project that improves or renovates the real property located at 733 15th Street, N.W. (Lot 22, Square 222), commonly known as “The Woodward Building.” Consult D.C. Official Code § 42-3404.02(c)(2)(H-i) of the Sale Act for specific exemption requirements.
- j. D.C. Official Code § 42-3404.02(c)(2)(I), Transfer of Title to a Limited Liability Company. A transfer of title to the housing accommodation to a limited liability company pursuant to D.C. Official Code § 29-1013.
- k. D.C. Official Code § 42-3404.02(c)(2)(J), Transfer of Bare Legal Title into a Revocable Trust. A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust pursuant to D.C. Official Code § 42-1102(17).
- l. D.C. Official Code § 42-3404.02(c)(2)(K), Transfer to a Trust Beneficiary Due to Trustor’s Death. A transfer of the housing accommodation to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust, pursuant to D.C. Official Code § 42-1102.
- m. D.C. Official Code § 42-3404.02(c)(2)(L), Transfer by Revocable Trust Trustee. A transfer of the housing accommodation by the trustee of a revocable trust if the transfer would otherwise be excluded under this chapter if made by the grantor of the revocable trust, pursuant to D.C. Official Code § 42-1102(19).

- n. D.C. Official Code § 42-3404.02(c)(2)(M), Transfer Pursuant to Court Order or Court-Approved Settlement. A transfer pursuant to court order or court-approved settlement.
- o. D.C. Official Code § 42-3404.02(c)(2)(N), Transfer Due to Eminent Domain. A transfer by eminent domain or under threat of eminent domain.

District of Columbia Department of Housing and Community
Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Jan. 2010)

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

**NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A RENTED SINGLE FAMILY HOUSE,
RENTED CONDOMINIUM UNIT OR RENTED COOPERATIVE UNIT**

Date: _____

SENT BY (Check only one)

- ☐ Certified Mail, Return Receipt Requested
☐ Registered Mail, Return Receipt Requested
☐ Commercial Overnight Carrier with Proof of Delivery
☐ Personal Service

(Complete Tenant Name & Address)

Dear _____:

The purpose of this letter is to notify you, as required by the D.C. Rental Housing Conversion and Sale Act (“**Act**”) (D.C. Official Code 2001 ed., as amended, § 42-3404.02 et. seq.), of a transfer of an ownership or economic interest in the

(Check only one)

- ☐ Single Family House
☐ Condominium Unit Number _____
☐ Cooperative Unit Number _____

in which you live located at _____,
Washington, D.C. _____ (“**Housing Accommodation**”). As a Housing Accommodation tenant, you must be given notice of the owner’s intent to transfer an ownership interest, or the transfer of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns the Housing Accommodation (“**Notice of Transfer**”). The owner shall give each tenant a Notice of Transfer, and provide a copy of the Notice of Transfer to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division (“**Rental Conversion and Sale Division**”), with a list of tenants and corresponding unit numbers, if applicable.

This Notice of Transfer also describes your tenant rights and responsibilities and the statutory time periods to challenge the transfer under the Act.

1. **OWNER, TRANSFEROR AND TRANSFEREE INFORMATION.**

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

Owner Name, Address &
Telephone Number

Transferor Name, Address &
Telephone Number

Transferee Name, Address &
Telephone Number

If additional space is required, attach a separate page labeled "SUPPLEMENTAL
ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT A."

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit A is
attached.

2. PROPOSED TRANSFER DATE, CLAIM OF EXEMPTION & CONSIDERATION.

a. The proposed transfer will not occur any earlier than at least ninety (90) days
from the date of this Notice of Transfer. The proposed date of transfer is: _____.

b. Under the Sale Act, some types of transfers are exempted as sale transactions.
The owner shall state the reason, if any, that the owner claims the transfer is not a sale of the
Housing Accommodation.

☐ Check here ONLY if the owner claims that the transfer is not a sale of the Housing
Accommodation under the Sale Act, and state Sale Act section and the owner's reason for the
claim of exemption:

c. Will the transferee pay consideration for the transfer of ownership or ownership
interest? YES [_____] NO [_____] If consideration will be paid, what is the sale price and
material terms?

3. DESCRIPTION OF TRANSFER TRANSACTION.

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

This Notice of Transfer contains an accurate description of the transfer, including all material facts. The owner's failure to provide a notice of transfer or a notice containing fraudulent or material misrepresentations or material omissions creates a rebuttable presumption that the transfer is actually a sale of the Housing Accommodation. Any change in the transfer terms or agreement invalidating an exemption claim shall be reported in writing to the Rental Conversion and Sale Division and to the tenant(s).

Describe the transfer transaction in the space below. If additional space is required, attach a supplemental sheet labeled “SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT B” and attach the supplemental page(s) to this Notice of Transfer.

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit B is attached.

a. The transferor owns a _____ % interest in the Housing Accommodation or an ownership in the corporation, partnership, limited liability company, association, trust, or other entity which owns the Housing Accommodation. The transferor proposes to transfer a _____ % interest to the transferee. As a result, the transferee will hold a _____ % ownership interest.

b. Describe the material facts of the transfer.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

c. The owner represents that the transfer of ownership interest is not a sale of the Housing Accommodation under the Sale Act for the ground(s) stated in Item 2.b. above, and tenants do not have the right to purchase the Housing Accommodation for the following reason(s):

d. Is the Housing Accommodation being transferred for purposes of receiving tax benefits under title 26, section 42 of the United States Code or a comparable District program? YES ☐ NO ☐ If yes, describe the applicable federal or District subsidy and describe steps taken in the transaction to receive the subsidy. If additional space is required, attach a separate page labeled "SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT C."

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit C is attached.

4. TENANT'S RIGHT TO CHALLENGE THE NOTICE OF TRANSFER.

A tenant has a right to challenge the housing accommodation transfer. To challenge the Notice of Transfer, a tenant must file a notice of intent to file for relief with the owner and the Rental Conversion and Sale Division indicating whether the tenant will make a challenge in the D.C. Superior Court of the District of Columbia or with the D.C. Office of Administrative Hearings ("**Notice of Intent to Petition for Relief**"). Within thirty (30) days after filing the Intent to File a Petition for Relief, the tenant must file a petition for relief either in the D.C. Superior Court or the D.C. Office of Administrative Hearings.

NOTE: If a tenant does not file a challenge within the prescribed timeframes, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

a. If the Owner Does Not Claim a Transfer Exemption. If the owner does not claim that the transfer is an exempt transaction under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within forty-five (45) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
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b. If the Owner Claims a Transfer Exemption. If the owner claims a transfer exemption under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within thirty (30) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.

c. Service of the Intent to File a Petition for Relief. A tenant challenging the transfer must deliver the Notice of Intent to Petition for Relief by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Rental Conversion and Sale Division and the owner on the same day. The owner's address is stated in the Notice of Transfer. **Faxing or emailing the Notice of Intent to Petition for Relief is NOT proper delivery.**

d. Tenant's Petition for Relief. Within thirty (30) days of the Rental Conversion and Sale Division's receipt of the tenant's Notice of Intent to Petition for Relief, a tenant must file a petition for relief under § 42-3405.03 or § 42-3405.03a of the Sale Act ("**Petition**"). The tenant must deliver a copy of the Petition to the owner by registered or certified mail, return receipt requested, or by personal service. **Faxing or emailing the Petition is NOT proper delivery.**

NOTE: If a tenant does not file a Petition within the prescribed timeframe, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

5. SUMMARY OF TENANT RIGHTS IF THE TRANSACTION WERE A SALE.

The following is an outline of tenant statutory rights if the proposed transfer is determined to constitute a sale of a housing accommodation under the Sale Act.

a. Offer Period. Upon receipt of a written offer of sale from the owner that includes a description of the tenant's rights and obligations, or upon the Rental Conversion and Sale Division's receipt of a copy of the written offer of sale, whichever date is later, the tenant shall have thirty (30) days to provide the owner and the Rental Conversion and Sale Division with a written statement accepting the owner's offer of sale. The written acceptance statement shall be a clear expression of interest on the part of the tenant to exercise the opportunity to purchase.

b. Negotiation Period. If a tenant provides a written acceptance statement, the owner shall afford the tenant a reasonable period to negotiate and ratify a contract of sale, and shall not require less than sixty (60) days, not including the thirty (30) days during the offer period.

c. Price & Material Terms. The owner must inform the tenant of the sale price and the material terms of sale and the type of financing arrangements, if any, the owner will accept at settlement.

d. Deposit. At the time of contracting, the tenant is required to deposit no more than five (5) percent of the contract sale price. This deposit, and accrued interest, is refundable in the event there is a good faith inability to perform under the sale contract.

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e. Settlement Period. After the owner and tenant ratify the sale contract, the tenant has a minimum of sixty (60) days to secure financing or financial assistance and settle on the purchase of the housing accommodation. If a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within ninety (90) days after the sale contract is ratified, however, the owner will provide the tenant with an extension of time consistent with the written estimate.

f. Information. Within seven (7) days of receiving a written request for the information, if applicable, the owner shall provide the tenant with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants and a list of vacant rental units.

g. Third Party Sale Contract & Right of First Refusal. If the owner ratifies a third party sale contract, the owner must provide a copy of the ratified third party sale contract to the tenant. The tenant will have an additional fifteen (15) days to match the third party sale contract. If a written statement accepting the owner's offer to sell the housing accommodation is submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

h. New Offer of Sale. The owner shall issue a new offer of sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to the tenant or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within one hundred eighty (180) days from the date of the offer of sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Sale Act.

i. Waiver. A tenant is prohibited from waiving the right to receive an offer of sale. A tenant may, however, waive any other tenant rights in exchange for any consideration which the tenant finds acceptable in his sole discretion and in accordance with applicable law.

j. Assistance. For information concerning technical and financial assistance, a tenant may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

6. NOTICE OF TRANSFER INFORMATION.

If you have any questions about the transfer of ownership interest to the transferee described in this Notice of Transfer, please call _____ on telephone number _____.

Sincerely,

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

OWNER:

by: _____
Its: _____
[signatory's title if owner is an entity]

cc: 1 copy of the Notice of Transfer, the owner's certificate of service and a list of all tenants
and corresponding units to:

District of Columbia Department of Housing and Community Development (Jan. 2010)
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A TWO (2), THREE (3) OR FOUR (4)
RENTAL UNIT HOUSING ACCOMMODATION**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to a Notice of Transfer for the transfer of an interest in a housing accommodation, or of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns a two (2), three (3) or four (4) residential unit housing accommodation. This Notice of Transfer is used to notify tenants and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division (“**Rental Conversion and Sale Division**”) of the transfer of an ownership interest in a business entity.

1. **Rental Housing Conversion and Sale Act of 1980, as amended.**
 - a. **Sale Requirements.** The Rental Housing Conversion and Sale Act of 1980 (“**Sale Act**”) (D.C. Official Code 2001 ed., as amended, § 42-3401.01 et. seq.) (also known as the “tenant opportunity to purchase act” or “TOPA”) provides before an owner of a residential rental property, known as a “**housing accommodation,**” may sell, or issue a notice of intent to recover possession, or issue a notice to vacate, for purposes of demolition or discontinuance of housing use, the owner shall give tenants an opportunity to purchase the housing accommodation at a price and terms representing a bona fide offer of sale.
 - b. **Transfer Requirements.** If an owner intends to transfer an ownership interest in the title of a housing accommodation, or transfer an economic or ownership interest in a corporation, partnership, limited liability company, association, trust or other entity which owns a housing accommodation as its sole or principal asset, which results in the transfer of the housing accommodation as a sale, the owner shall give tenants and the Rental Conversion and Sale Division notice of the ownership interest or economic interest transfer. As outlined below, certain transfer transactions are exempt from the notice requirement.
2. **Notice of Transfer and Required Contents.** The Notice of Transfer must provide, at a minimum, a statement of a tenant’s rights under the Sale Act, an accurate description of the transfer, containing all material facts, the proposed transfer date, and the reason, if any, the owner claims the transfer is not a sale of the housing accommodation. The Notice of Transfer shall also: (i) be dated; (ii) clearly show the owner’s name, street delivery address, and telephone number; (iii) be signed by the owner; and (iv) contain a statement of tenant’s rights if the transfer constitutes a sale. The Notice of Transfer copy

designated for the Rental Conversion and Sale Division must also include an affidavit of service and list of all tenant names and addresses.

In addition to all other requirements, transfers of housing accommodations for the purposes of receiving tax benefits under title 26, section 42 of the United States Code or a comparable District of Columbia program, shall include a description of the applicable federal or District subsidy, and a description of the steps in the transaction taken by the owner or developer to receive the tax benefit.

NOTE: An owner's failure to provide a notice of transfer or a notice containing fraudulent or material misrepresentations or material omissions creates a rebuttable presumption that the transfer is in actuality a sale of the housing accommodation.

Any change in the transfer terms or agreement invalidating an exemption claim (discussed in Item 4. below) shall be reported in writing to the Rental Conversion and Sale Division and to the tenants.

3. **Notice of Transfer Service Requirements.**

- a. **Service Requirement.** The Notice of Transfer must be sent by registered or certified mail, return receipt requested, by commercial overnight delivery service which maintains proof of delivery, or by personal service at least ninety (90) days prior to the proposed transfer date to each tenant and the Rental Conversion and Sale Division. The Notice of Transfer shall be sent to tenants at their housing accommodation address unless the tenant notified the owner of a different notice address. **Faxing or emailing the Notice of Transfer is NOT proper delivery.**
- b. **Affidavit of Service to the Rental Conversion and Sale Division.** The owner must certify when the Notice of Transfer was sent to the tenant(s). An affidavit of service is attached to these instructions (See Appendix I). Fill in and sign the service affidavit, and attach the completed and signed affidavit to the Rental Conversion and Sale Division when the Notice of Transfer is sent or delivered. Attach a list of tenants to the Affidavit(s) and label the list "Exhibit A." **Faxing or emailing the Notice of Transfer is NOT proper delivery.**

4. **Transfers Which Are Not Sales Under the Sale Act.** The Sale Act expressly exempts certain transfers as not being sale transactions. For these transfer types, an owner is not required to offer a housing accommodation for sale to tenants. See Appendix II for the enumerated transfer exemptions. **YOU MUST CONSULT SECTION 42-3404.02(c)(2) OF THE SALE ACT FOR FURTHER INFORMATION.**

- a. **Transfers for Which Notice to Tenants Is Not Required.** The Sale Act provides that for transfers due to a distribution under a decedent's estate, tax sale or tax foreclosure, bankruptcy sale, a U.S. Securities and Exchange Commission registration statement, a revocable trust, court order or court-approved settlement

or eminent domain, an owner shall provide a Notice of Transfer to the Rental Conversion and Sale Division, but is not required to provide a Notice of Transfer to tenants.

- b. **No Notice Required for Foreclosure Transfers.** There is no Notice of Transfer requirement for transfers due to a foreclosure or deed in lieu of foreclosure.

NOTE: Ownership transfers due to foreclosure or deed in lieu of foreclosure transactions are subject to a tenant's occupancy rights, and a tenant may neither be served with a notice to vacate nor evicted due to a foreclosure or deed in lieu of foreclosure transfer.

5. **Tenant's Right to Challenge Transfer.** A tenant has a right to challenge the housing accommodation transfer. To challenge the transfer, a tenant must file a notice of intent to file for relief with the owner and the Rental Conversion and Sale Division indicating whether the tenant will make a challenge in the Superior Court of the District of Columbia or with the D.C. Office of Administrative Hearings ("**Notice of Intent to Petition for Relief**"). Within thirty (30) days after filing the Intent to File a Petition for Relief, the tenant must file a petition for relief either in the D.C. Superior Court or the D.C. Office of Administrative Hearings pursuant to either § 42-3405.03 or § 42-3405.03a of the Sale Act.

Note: If a tenant does not file a challenge within the prescribed timeframes, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

- a. **Tenant's Intent to File a Petition for Relief.**
- i. **If the Owner Does Not Claim a Transfer Exemption.** If the owner does not claim that the transfer is an exempt transaction under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within forty-five (45) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.
- ii. **If the Owner Claims a Transfer Exemption.** If the owner claims that the transfer is exempt under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within thirty (30) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.
- iii. **Service of the Intent to File a Petition for Relief.** A tenant challenging the transfer must deliver the Notice of Intent to Petition for Relief by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Rental Conversion and Sale Division and the owner on the same day. The owner's address is stated in the Notice of Transfer.

Faxing or emailing the Notice of Intent to Petition for Relief is NOT proper delivery.

- b. **Tenant's Petition for Relief.** Within thirty (30) days of the Rental Conversion and Sale Division's receipt of the tenant's Notice of Intent to Petition for Relief, a tenant must file a petition for relief under § 42-3405.03 or § 42-3405.03a of the Sale Act (**Petition**). The tenant must deliver a copy of the Petition to the owner by registered or certified mail, return receipt requested, or by personal service. **Faxing or emailing the Petition is NOT proper delivery.**

Note: If a tenant does not file a Petition within the prescribed timeframe, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Jan. 2010)

APPENDIX I

**TO THE INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A TWO (2), THREE (3) OR FOUR (4)
RENTAL UNIT HOUSING ACCOMMODATION**

AFFIDAVIT OF MAILING OF NOTICE OF TRANSFER

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

That on _____ at _____ a.m. / p.m. [circle
one], I delivered envelopes addressed to the tenant(s) identified on the list attached to this

Affidavit as **Exhibit A** [Check only one]

☐ to a U.S. Postal Service employee at the U.S. Post Office located at _____
_____, with proper postage affixed for delivery by certified mail, or

☐ to a commercial carrier, _____ (insert name), which
maintains proof of delivery, or

☐ by personal service to _____ (insert name),

and containing a true, correct and complete copy of the Notice of Transfer dated _____

for the housing accommodation located at the above stated address.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code 2001
ed., as amended, § 22-2405, that the foregoing representations and statements are true and
correct.

Date

Signature

Print Name

APPENDIX II**TO THE
INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A TWO (2), THREE (3) OR FOUR (4)
RENTAL UNIT HOUSING ACCOMMODATION**

The Sale Act expressly exempts certain transfers as not being sale transactions. For these transfer types, an owner is not required to offer a housing accommodation for sale to tenants. **THE FOLLOWING IS A LIST OF EXEMPTIONS PURSUANT TO D.C. OFFICIAL CODE § 42-3404.02(c)(2). YOU MUST CONSULT D.C. OFFICIAL CODE § 42-3404.02(c)(2) FOR FURTHER INFORMATION AND THE COMPLETE LIST OF EXEMPTIONS.**

Any change in the transfer terms or agreement invalidating an exemption claim shall be reported in writing to the Rental Conversion and Sale Division and to the tenants.

- a. D.C. Official Code § 42-3404.02(c)(2)(A), Transfers by a Decedent's Estate. A transfer, even though for consideration, by a decedent's estate to members of the decedent's family if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity. "Members of the decedent's family" means: (i) the decedent's surviving spouse, or domestic partner; (ii) the decedent's lineal descendants, or a lineal descendant's spouse; (iii) trust for the primary benefit of the persons referred to in (ii); and (iii) a partnership, corporation, or other entity controlled by the individuals referred to (i) and (ii).
- b. D.C. Official Code § 42-3404.02(c)(2)(B), Intrafamilial Transfers. An inter-vivos transfer, even though for consideration, between spouses, parent and child, siblings, grandparent and grandchild, or domestic partners.
- c. D.C. Official Code § 42-3404.02(c)(2)(C), Transfers By or Under a Bona Fide Mortgage or Bona Fide Deed of Trust. A transfer of legal title or an interest in an entity holding legal title to a housing accommodation pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage.
- d. D.C. Official Code § 42-3404.02(c)(2)(D), Transfers Due to Tax Sale or Tax Foreclosure. A tax sale or transfer pursuant to tax foreclosure.
- e. D.C. Official Code § 42-3404.02(c)(2)(E), Transfers Pursuant to Bankruptcy. Bankruptcy sale.
- f. D.C. Official Code § 42-3404.02(c)(2)(F), Transfers under SEC Registration Statement. Any transaction involving accommodations otherwise subject thereto

expressly contemplated by a registration statement filed with the Securities and Exchange Commission prior to February 22, 1994.

- g. D.C. Official Code § 42-3404.02(c)(2)(G), Transfers Due to Change in Business Form. Any transfer of a property directly caused by a change in the form of the entity owning the property; provided, that the transfer is without consideration, including a transfer of interests in an entity to a limited liability company as contemplated by D.C. Official Code § 29-1013.
- h. D.C. Official Code § 42-3404.02(c)(2)(H), Transfer of Interests in a Partnership of Limited Liability Company to Admit Partners or Investor Members. The transfer of interests in a partnership or limited liability company that owns an accommodation as its sole or principal asset; provided, that the sole purpose of the transfer is to admit one or more limited partners or investor members who will make capital contributions and receive tax benefits pursuant to title 26, § 42 of the United States Code, or a comparable District program.
- i. D.C. Official Code § 42-3404.02(c)(2)(H-i), Transfers Relating to the Woodward Building. A conveyance or re-conveyance for a project that improves or renovates the real property located at 733 15th Street, N.W. (Lot 22, Square 222), commonly known as “The Woodward Building.” Consult D.C. Official Code § 42-3404.02(c)(2)(H-i) of the Sale Act for specific exemption requirements.
- j. D.C. Official Code § 42-3404.02(c)(2)(I), Transfer of Title to a Limited Liability Company. A transfer of title to the housing accommodation to a limited liability company pursuant to D.C. Official Code § 29-1013.
- k. D.C. Official Code § 42-3404.02(c)(2)(J), Transfer of Bare Legal Title into a Revocable Trust. A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust pursuant to D.C. Official § 42-1102(17).
- l. D.C. Official Code § 42-3404.02(c)(2)(K), Transfer to a Trust Beneficiary Due to Trustor’s Death. A transfer of the housing accommodation to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust, pursuant to D.C. Official Code § 42-1102.
- m. D.C. Official Code § 42-3404.02(c)(2)(L), Transfer by Revocable Trust Trustee. A transfer of the housing accommodation by the trustee of a revocable trust if the transfer would otherwise be excluded under this chapter if made by the grantor of the revocable trust, pursuant to D.C. Official Code § 42-1102(19).
- n. D.C. Official Code § 42-3404.02(c)(2)(M), Transfer Pursuant to Court Order or Court-Approved Settlement. A transfer pursuant to court order or court-approved settlement.

- o. D.C. Official Code § 42-3404.02(c)(2)(N), Transfer Due to Eminent Domain. A transfer by eminent domain or under threat of eminent domain.

District of Columbia Department of Housing and Community
Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
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Telephone (202) 442-9505
www.dhcd.dc.gov

(Jan. 2010)

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SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

**NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A TWO (2), THREE (3) OR FOUR (4)
RENTAL UNIT HOUSING ACCOMMODATION**

Date: _____

SENT BY (Check only one)

- | | |
|--------------------------|---|
| <input type="checkbox"/> | Certified Mail, Return Receipt Requested |
| <input type="checkbox"/> | Registered Mail, Return Receipt Requested |
| <input type="checkbox"/> | Commercial Overnight Carrier with Proof of Delivery |
| <input type="checkbox"/> | Personal Service |

(Complete Tenant Name & Address)

Dear _____:

The purpose of this letter is to notify you, as required by the D.C. Rental Housing Conversion and Sale Act (“**Act**”) (D.C. Official Code 2001 ed., as amended, § 42-3404.02 et. seq. (2001)), of a transfer of an ownership or economic interest in the housing accommodation in which you live located at _____, Washington, D.C. _____ (“**Housing Accommodation**”). The total number of rental units in the Housing Accommodation is: _____.

As a Housing Accommodation tenant, you must be given notice of the owner’s intent to transfer an ownership interest, or the transfer of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns the Housing Accommodation (“**Notice of Transfer**”). The owner shall give each tenant a Notice of Transfer, and provide a copy of the Notice of Transfer to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division (“**Rental Conversion and Sale Division**”), with a list of tenants and corresponding unit numbers, if applicable.

This Notice of Transfer also describes your tenant rights and responsibilities and the statutory time periods to challenge the transfer under the Act.

1. OWNER, TRANSFEROR AND TRANSFEREE INFORMATION.

Owner Name, Address &
Telephone Number

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

Transferor Name, Address &
Telephone Number

Transferee Name, Address &
Telephone Number

If additional space is required, attach a separate page labeled "SUPPLEMENTAL
ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT A."

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit A is
attached.

2. PROPOSED TRANSFER DATE, CLAIM OF EXEMPTION & CONSIDERATION.

a. The proposed transfer will not occur any earlier than at least ninety (90) days
from the date of this Notice of Transfer. The proposed date of transfer is:

b. Under the Sale Act, some types of transfers are exempted as sale transactions.
The owner shall state the reason, if any, that the owner claims the transfer is not a sale of the
Housing Accommodation.

☐ Check here ONLY if the owner claims that the transfer is not a sale of the Housing
Accommodation under the Sale Act, and state Sale Act section and the owner's reason for the
claim of exemption:

c. Will the transferee pay consideration for the transfer of ownership or ownership
interest? YES [_____] NO [_____] If consideration will be paid, what is the sale price and
material terms?

3. DESCRIPTION OF TRANSFER TRANSACTION.

This Notice of Transfer contains an accurate description of the transfer, including all material
facts. The owner's failure to provide a notice of transfer or a notice containing fraudulent or

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

material misrepresentations or material omissions creates a rebuttable presumption that the transfer is actually a sale of the Housing Accommodation. Any change in the transfer terms or agreement invalidating an exemption claim shall be reported in writing to the Rental Conversion and Sale Division and to the tenant(s).

Describe the transfer transaction in the space below. If additional space is required, attach a supplemental sheet labeled “SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT B” and attach the supplemental page(s) to this Notice of Transfer.

11

Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit B is attached.

a. The transferor owns a _____ % interest in the Housing Accommodation or an ownership in the corporation, partnership, limited liability company, association, trust, or other entity which owns the Housing Accommodation. The transferor proposes to transfer a _____ % interest to the transferee. As a result, the transferee will hold a _____ % ownership interest.

b. Describe the material facts of the transfer.

[illegible]

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c. The owner represents that the transfer of ownership interest is not a sale of the Housing Accommodation under the Sale Act for the ground(s) stated in Item 2.b. above, and tenants do not have the right to purchase the Housing Accommodation for the following reason(s):

d. Is the Housing Accommodation being transferred for purposes of receiving tax benefits under title 26, section 42 of the United States Code or a comparable District program? YES ☐ NO ☐ If yes, describe the applicable federal or District subsidy and describe steps taken in the transaction to receive the subsidy. If additional space is required, attach a separate page labeled "SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT C."

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit C is attached.

4. TENANT'S RIGHT TO CHALLENGE THE NOTICE OF TRANSFER.

A tenant has a right to challenge the housing accommodation transfer. To challenge the Notice of Transfer, a tenant must file a notice of intent to file for relief with the owner and the Rental Conversion and Sale Division indicating whether the tenant will make a challenge in the D.C. Superior Court of the District of Columbia or with the D.C. Office of Administrative Hearings ("**Notice of Intent to Petition for Relief**"). Within thirty (30) days after filing the Intent to File a Petition for Relief, the tenant must file a petition for relief either in the D.C. Superior Court or the D.C. Office of Administrative Hearings.

NOTE: If a tenant does not file a challenge within the prescribed timeframes, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

a. If the Owner Does Not Claim a Transfer Exemption. If the owner does not claim that the transfer is an exempt transaction under the Sale Act, a tenant wishing to challenge the

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transfer may file a Notice of Intent to Petition for Relief within forty-five (45) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.

b. If the Owner Claims a Transfer Exemption. If the owner claims a transfer exemption under the Sale Act, a tenant wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within thirty (30) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.

c. Service of the Intent to File a Petition for Relief. A tenant challenging the transfer must deliver the Notice of Intent to Petition for Relief by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Rental Conversion and Sale Division and the owner on the same day. The owner's address is stated in the Notice of Transfer. **Faxing or emailing the Notice of Intent to Petition for Relief is NOT proper delivery.**

d. Tenant's Petition for Relief. Within thirty (30) days of the Rental Conversion and Sale Division's receipt of the tenant's Notice of Intent to Petition for Relief, a tenant must file a petition for relief under § 42-3405.03 or § 42-3405.03a of the Sale Act ("**Petition**"). The tenant must deliver a copy of the Petition to the owner by registered or certified mail, return receipt requested, or by personal service. **Faxing or emailing the Petition is NOT proper delivery.**

NOTE: If a tenant does not file a Petition within the prescribed timeframe, then the tenant cannot assert any rights under the Sale Act with respect to the transfer.

5. SUMMARY OF TENANT RIGHTS IF THE TRANSACTION WERE A SALE.

The following is an outline of tenant statutory rights if the proposed transfer is determined to constitute a sale of a housing accommodation under the Sale Act.

a. Offer Period. Upon receipt of a written offer of sale from the owner that includes a description of the tenant's rights and obligations, or upon the Rental Conversion and Sale Division's receipt of a copy of the written offer of sale, whichever date is later, the tenants acting together as a group shall have fifteen (15) days to provide the owner and the Rental Conversion and Sale Division with a written statement accepting the owner's offer of sale. After the fifteen (15) day period, if the tenants acting as a group do not submit a written acceptance statement, then any individual tenant has seven (7) days to provide the owner and the Rental Conversion and Sale Division with a written statement accepting the owner's offer of sale. The written acceptance statement shall be a clear expression of interest on the part of the tenant group or an individual tenant to exercise the opportunity to purchase.

b. Negotiation Period. If a tenant group provides a written acceptance statement, the owner shall afford the tenant a reasonable period to negotiate and ratify a contract of sale, and shall not require less than ninety (90) days. If at the end of the ninety (90) day negotiation time period, a tenant group has not entered into a sale contract with the owner, the owner shall

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provide an additional thirty (30) days to negotiate and ratify a sale contract with any individual tenant.

c. Price & Material Terms. The owner must inform the tenants of the sale price and the material terms of sale and the type of financing arrangements, if any, the owner will accept at settlement.

d. Deposit. At the time of contracting, the tenant group or individual tenant is required to deposit no more than five (5) percent of the contract sale price. This deposit, and accrued interest, is refundable in the event there is a good faith inability to perform under the sale contract.

e. Settlement Period. After the owner and tenant group or an individual tenant ratify the sale contract, the tenant group or individual tenant has a minimum of ninety (90) days to secure financing or financial assistance and settle on the purchase of the housing accommodation. If a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within one hundred twenty (120) days after the sale contract is ratified, however, the owner will provide the tenant group or tenant with an extension of time consistent with the written estimate.

f. Information. Within seven (7) days of receiving a written request for the information, if applicable, the owner shall provide the tenant group or individual tenant with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants and a list of vacant rental units.

g. Third Party Sale Contract & Right of First Refusal. If the owner ratifies a third party sale contract, the owner must provide a copy of the ratified third party sale contract to the tenants. The tenants will have an additional fifteen (15) days to match the third party sale contract. If a written statement accepting the owner's offer to sell the housing accommodation is submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

h. New Offer of Sale. The owner shall issue a new offer of sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to the tenant or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within two hundred forty (240) days from the date of the offer of sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Sale Act.

i. Waiver. Tenants are prohibited from waiving the right to receive an offer of sale. Tenants may, however, waive any other tenant rights in exchange for any consideration which the tenants finds acceptable in their sole discretion and in accordance with applicable law.

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j. Assistance. For information concerning technical and financial assistance, a tenant may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

6. NOTICE OF TRANSFER INFORMATION.

If you have any questions about the transfer of ownership interest to the transferee described in this Notice of Transfer, please call _____ on telephone number _____.

Sincerely,

OWNER:

by: _____
Its: _____
[signatory's title if owner is an entity]

cc: 1 copy of the Notice of Transfer, the owner's certificate of service and a list of all tenants and corresponding units to:

District of Columbia Department of Housing and Community Development (Jan. 2010)
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

District of Columbia Department of Housing and Community Development
Housing Regulation Administration – Rental Conversion and Sale Division

**INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A
FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATION**

PLEASE READ AND FOLLOW THESE INSTRUCTIONS CAREFULLY

These instructions apply to a Notice of Transfer for the transfer of an interest in a housing accommodation, or of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns a five (5) or more residential rental unit housing accommodation. This Notice of Transfer is used to notify tenants and the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division (“**Rental Conversion and Sale Division**”) of the transfer of an ownership interest in a business entity.

1. **Rental Housing Conversion and Sale Act of 1980, as amended.**
 - b. **Sale Requirements.** The Rental Housing Conversion and Sale Act of 1980 (“**Sale Act**”) (D.C. Official Code 2001 ed., as amended, § 42-3401.01 et. seq.) (also known as the “tenant opportunity to purchase act” or “TOPA”) provides before an owner of a residential rental property, known as a “**housing accommodation**,” may sell, or issue a notice of intent to recover possession, or issue a notice to vacate, for purposes of demolition or discontinuance of housing use, the owner shall give tenants an opportunity to purchase the housing accommodation at a price and terms representing a bona fide offer of sale.
 - c. **Transfer Requirements.** If an owner intends to transfer an ownership interest in the title of a housing accommodation, or transfer an economic or ownership interest in a corporation, partnership, limited liability company, association, trust or other entity which owns a housing accommodation as its sole or principal asset, which results in the transfer of the housing accommodation as a sale, the owner shall give tenants and the Rental Conversion and Sale Division notice of the ownership interest or economic interest transfer. As outlined below, certain transfer transactions are exempt from the notice requirement.
2. **Notice of Transfer and Required Contents.** The Notice of Transfer must provide, at a minimum, a statement of a tenant’s rights under the Sale Act, an accurate description of the transfer, containing all material facts, the proposed transfer date, and the reason, if any, the owner claims the transfer is not a sale of the housing accommodation. The Notice of Transfer shall also: (i) be dated; (ii) clearly show the owner’s name, street delivery address, and telephone number; (iii) be signed by the owner; and (iv) contain a statement of tenant’s rights if the transfer constitutes a sale. The Notice of Transfer copy

designated for the Rental Conversion and Sale Division must also include an affidavit of service and list of all tenant names and addresses.

In addition to all other requirements, transfers of housing accommodations for the purposes of receiving tax benefits under title 26, section 42 of the United States Code or a comparable District of Columbia program, shall include a description of the applicable federal or District subsidy, and a description of the steps in the transaction taken by the owner or developer to receive the tax benefit.

NOTE: An owner's failure to provide a notice of transfer or a notice containing fraudulent or material misrepresentations or material omissions creates a rebuttable presumption that the transfer is in actuality a sale of the housing accommodation.

Any change in the transfer terms or agreement invalidating an exemption claim (discussed in Item 4. below) shall be reported in writing to the Rental Conversion and Sale Division and to the tenants.

3. **Notice of Transfer Service Requirements.**

b. **Service Requirement.** The Notice of Transfer must be sent by registered or certified mail, return receipt requested, by commercial overnight delivery service which maintains proof of delivery, or by personal service at least ninety (90) days prior to the proposed transfer date to each tenant and the Rental Conversion and Sale Division. The Notice of Transfer shall be sent to tenants at their housing accommodation address unless the tenant notified the owner of a different notice address. **Faxing or emailing the Notice of Transfer is NOT proper delivery.**

c. **Affidavit of Service to the Rental Conversion and Sale Division.** The owner must certify when the Notice of Transfer was sent to the tenant(s). An affidavit of service is attached to these instructions (See Appendix I). Fill in and sign the service affidavit, and attach the completed and signed affidavit to the Rental Conversion and Sale Division when the Notice of Transfer is sent or delivered. Attach a list of tenants to the Affidavit(s) and label the list "Exhibit A." **Faxing or emailing the Notice of Transfer is NOT proper delivery.**

4. **Transfers Which Are Not Sales Under the Sale Act.** The Sale Act expressly exempts certain transfers as not being sale transactions. For these transfer types, an owner is not required to offer a housing accommodation for sale to tenants. See Appendix II for the enumerated transfer exemptions. **YOU MUST CONSULT SECTION 42-3404.02(c)(2) OF THE SALE ACT FOR FURTHER INFORMATION.**

b. **Transfers for Which Notice to Tenants Is Not Required.** The Sale Act provides that for transfers due to a distribution under a decedent's estate, tax sale or tax foreclosure, bankruptcy sale, a U.S. Securities and Exchange Commission registration statement, a revocable trust, court order or court-approved settlement

or eminent domain, an owner shall provide a Notice of Transfer to the Rental Conversion and Sale Division, but is not required to provide a Notice of Transfer to tenants.

- c. **No Notice Required for Foreclosure Transfers.** There is no Notice of Transfer requirement for transfers due to a foreclosure or deed in lieu of foreclosure.

NOTE: Ownership transfers due to foreclosure or deed in lieu of foreclosure transactions are subject to a tenant's occupancy rights, and a tenant may neither be served with a notice to vacate nor evicted due to a foreclosure or deed in lieu of foreclosure transfer.

5. **Tenant's Right to Challenge Transfer.** Only a tenant organization has a right to challenge the housing accommodation transfer. To challenge the transfer, a tenant organization must file a notice of intent to file for relief with the owner and the Rental Conversion and Sale Division indicating whether the tenant will make a challenge in the Superior Court of the District of Columbia or with the D.C. Office of Administrative Hearings ("**Notice of Intent to Petition for Relief**"). Within thirty (30) days after filing the Intent to File a Petition for Relief, the tenant must file a petition for relief either in the D.C. Superior Court or the D.C. Office of Administrative Hearings pursuant to either § 42-3405.03 or § 42-3405.03a of the Sale Act.

Note: If a tenant organization does not file a challenge within the prescribed timeframes, then the tenant organization cannot assert any rights under the Sale Act with respect to the transfer.

- a. **Tenant Organization Registration.**

Tenants must organize and form a tenant organization (*see* Sale Act § 42-3404.11; *see also* 14 DCMR § 4715 (2004)). The tenant organization must register with the Rental Conversion and Sale Division. Upon registration, the tenant organization is the tenants' sole representative with authority to act on the tenants' behalf. The tenant organization must have the legal capacity to hold real property. A tenant organization application includes:

- i. a notarized registration application;
- ii. a list of tenant members representing the majority of the heads of households in the housing accommodation as of the time of registration;
- ii. information regarding the elected officers; and
- iii. copies of the tenant organization articles of incorporation, certification of incorporation and bylaws.

The tenant organization registration application must be either sent by certified mail or

hand-delivered to both the owner and the Rental Conversion and Sale Division.

b. **Tenant Organization's Intent to File a Petition for Relief.**

- i. **If the Owner Does Not Claim a Transfer Exemption.** If the owner does not claim that the transfer is an exempt transaction under the Sale Act, a tenant organization wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within forty-five (45) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.
- ii. **If the Owner Claims a Transfer Exemption.** If the owner claims that the transfer is exempt under the Sale Act, a tenant organization wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within thirty (30) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.
- iii. **Service of the Intent to File a Petition for Relief.** A tenant organization challenging the transfer must deliver the Notice of Intent to Petition for Relief by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Rental Conversion and Sale Division and the owner on the same day. The owner's address is stated in the Notice of Transfer. **Faxing or emailing the Notice of Intent to Petition for Relief is NOT proper delivery.**

- c. **Tenant Organization's Petition for Relief.** Within thirty (30) days of the Rental Conversion and Sale Division's receipt of the tenant's Notice of Intent to Petition for Relief, a tenant organization must file a petition for relief under § 42-3405.03 or § 42-3405.03a of the Sale Act (**Petition**). The tenant organization must deliver a copy of the Petition to the owner by registered or certified mail, return receipt requested, or by personal service. **Faxing or emailing the Petition is NOT proper delivery.**

Note: If a tenant organization does not file a Petition within the prescribed timeframe, then the tenant organization cannot assert any rights under the Sale Act with respect to the transfer.

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Jan. 2010)

APPENDIX I**TO THE INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A
FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATION****AFFIDAVIT OF MAILING OF NOTICE OF TRANSFER**

PROPERTY ADDRESS: _____

The undersigned hereby certifies the following to the Mayor of the District of Columbia:

That on _____ at _____ a.m. / p.m. [circle
one], I delivered envelopes addressed to the tenant(s) identified on the list attached to this

Affidavit as **Exhibit A** [Check only one]

☐ to a U.S. Postal Service employee at the U.S. Post Office located at _____
_____, with proper postage affixed for delivery by certified mail, or

☐ to a commercial carrier, _____ (insert name), which
maintains proof of delivery, or

☐ by personal service to _____ (insert name),

and containing a true, correct and complete copy of the Notice of Transfer dated _____

for the housing accommodation located at the above stated address.

I declare under penalty of law for making a false statement, as set out in D.C. Official Code 2001
ed., as amended, § 22-2405, that the foregoing representations and statements are true and
correct.

Date_____
Signature_____
Print Name

APPENDIX II

**TO THE
INSTRUCTIONS FOR PREPARING AND ISSUING
A NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A
FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATION**

The Sale Act expressly exempts certain transfers as not being sale transactions. For these transfer types, an owner is not required to offer a housing accommodation for sale to tenants. **THE FOLLOWING IS A LIST OF EXEMPTIONS PURSUANT TO D.C. OFFICIAL CODE § 42-3404.02(c)(2). YOU MUST CONSULT D.C. OFFICIAL CODE § 42-3404.02(c)(2) FOR FURTHER INFORMATION AND THE COMPLETE LIST OF EXEMPTIONS.**

Any change in the transfer terms or agreement invalidating an exemption claim shall be reported in writing to the Rental Conversion and Sale Division and to the tenants.

- a. D.C. Official Code § 42-3404.02(c)(2)(A), Transfers by a Decedent's Estate. A transfer, even though for consideration, by a decedent's estate to members of the decedent's family if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity. "Members of the decedent's family" means: (i) the decedent's surviving spouse, or domestic partner; (ii) the decedent's lineal descendants, or a lineal descendant's spouse; (iii) trust for the primary benefit of the persons referred to in (ii); and (iii) a partnership, corporation, or other entity controlled by the individuals referred to (i) and (ii).
- b. D.C. Official Code § 42-3404.02(c)(2)(B), Intrafamilial Transfers. An inter-vivos transfer, even though for consideration, between spouses, parent and child, siblings, grandparent and grandchild, or domestic partners.
- c. D.C. Official Code § 42-3404.02(c)(2)(C), Transfers By or Under a Bona Fide Mortgage or Bona Fide Deed of Trust. A transfer of legal title or an interest in an entity holding legal title to a housing accommodation pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage.
- d. D.C. Official Code § 42-3404.02(c)(2)(D), Transfers Due to Tax Sale or Tax Foreclosure. A tax sale or transfer pursuant to tax foreclosure.
- e. D.C. Official Code § 42-3404.02(c)(2)(E), Transfers Pursuant to Bankruptcy. Bankruptcy sale.
- f. D.C. Official Code § 42-3404.02(c)(2)(F), Transfers under SEC Registration Statement. Any transaction involving accommodations otherwise subject thereto

expressly contemplated by a registration statement filed with the Securities and Exchange Commission prior to February 22, 1994.

- g. D.C. Official Code § 42-3404.02(c)(2)(G), Transfers Due to Change in Business Form. Any transfer of a property directly caused by a change in the form of the entity owning the property; provided, that the transfer is without consideration, including a transfer of interests in an entity to a limited liability company as contemplated by D.C. Official Code § 29-1013.
- h. D.C. Official Code § 42-3404.02(c)(2)(H), Transfer of Interests in a Partnership of Limited Liability Company to Admit Partners or Investor Members. The transfer of interests in a partnership or limited liability company that owns an accommodation as its sole or principal asset; provided, that the sole purpose of the transfer is to admit one or more limited partners or investor members who will make capital contributions and receive tax benefits pursuant to title 26, § 42 of the United States Code, or a comparable District program.
- i. D.C. Official Code § 42-3404.02(c)(2)(H-i), Transfers Relating to the Woodward Building. A conveyance or re-conveyance for a project that improves or renovates the real property located at 733 15th Street, N.W. (Lot 22, Square 222), commonly known as “The Woodward Building.” Consult D.C. Official Code § 42-3404.02(c)(2)(H-i) of the Sale Act for specific exemption requirements.
- j. D.C. Official Code § 42-3404.02(c)(2)(I), Transfer of Title to a Limited Liability Company. A transfer of title to the housing accommodation to a limited liability company pursuant to D.C. Official Code § 29-1013.
- k. D.C. Official Code § 42-3404.02(c)(2)(J), Transfer of Bare Legal Title into a Revocable Trust. A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust pursuant to D.C. Official § 42-1102(17).
- l. D.C. Official Code § 42-3404.02(c)(2)(K), Transfer to a Trust Beneficiary Due to Trustor’s Death. A transfer of the housing accommodation to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust, pursuant to D.C. Official Code § 42-1102.
- m. D.C. Official Code § 42-3404.02(c)(2)(L), Transfer by Revocable Trust Trustee. A transfer of the housing accommodation by the trustee of a revocable trust if the transfer would otherwise be excluded under this chapter if made by the grantor of the revocable trust, pursuant to D.C. Official Code § 42-1102(19).
- n. D.C. Official Code § 42-3404.02(c)(2)(M), Transfer Pursuant to Court Order or Court-Approved Settlement. A transfer pursuant to court order or court-approved settlement.

- o. D.C. Official Code § 42-3404.02(c)(2)(N), Transfer Due to Eminent Domain. A transfer by eminent domain or under threat of eminent domain.

District of Columbia Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

(Jan. 2010)

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SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

**NOTICE OF TRANSFER OF OWNERSHIP INTEREST OR
AN ECONOMIC INTEREST IN A
FIVE (5) OR MORE RENTAL UNIT HOUSING ACCOMMODATION**

Date: _____

SENT BY (Check only one)

- | | |
|--------------------------|---|
| <input type="checkbox"/> | Certified Mail, Return Receipt Requested |
| <input type="checkbox"/> | Registered Mail, Return Receipt Requested |
| <input type="checkbox"/> | Commercial Overnight Carrier with Proof of Delivery |
| <input type="checkbox"/> | Personal Service |

(Complete Tenant Name & Address)

Dear _____:

The purpose of this letter is to notify you, as required by the D.C. Rental Housing Conversion and Sale Act (“**Act**”) (D.C. Official Code 2001 ed., as amended, § 42-3404.02 et. seq.), of a transfer of an ownership or economic interest in the housing accommodation in which you live located at _____, Washington, D.C. _____ (“**Housing Accommodation**”). The total number of rental units in the Housing Accommodation is: _____.

As a Housing Accommodation tenant, you must be given notice of the owner’s intent to transfer an ownership interest, or the transfer of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns the Housing Accommodation (“**Notice of Transfer**”). The owner shall give each tenant a Notice of Transfer, and provide a copy of the Notice of Transfer to the D.C. Department of Housing and Community Development, Rental Conversion and Sale Division (“**Rental Conversion and Sale Division**”), with a list of tenants and corresponding unit numbers, if applicable.

This Notice of Transfer also describes your tenant rights and responsibilities and the statutory time periods to challenge the transfer under the Act.

1. OWNER, TRANSFEROR AND TRANSFEREE INFORMATION.

Owner Name, Address &
Telephone Number

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SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

Transferor Name, Address &
Telephone Number

Transferee Name, Address &
Telephone Number

If additional space is required, attach a separate page labeled "SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT A."

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit A is attached.

2. PROPOSED TRANSFER DATE, CLAIM OF EXEMPTION & CONSIDERATION.

a. The proposed transfer will not occur any earlier than at least ninety (90) days from the date of this Notice of Transfer. The proposed date of transfer is:

_____.

b. Under the Sale Act, some types of transfers are exempted as sale transactions. The owner shall state the reason, if any, that the owner claims the transfer is not a sale of the Housing Accommodation.

☐ Check here ONLY if the owner claims that the transfer is not a sale of the Housing Accommodation under the Sale Act, and state Sale Act section and the owner's reason for the claim of exemption:

c. Will the transferee pay consideration for the transfer of ownership or ownership interest? YES [_____] NO [_____] If consideration will be paid, what is the sale price and material terms?

3. DESCRIPTION OF TRANSFER TRANSACTION.

DO NOT DELETE OR ALTER ANY PART OF THIS NOTICE OF TRANSFER
SUPPLEMENTAL PAGES MAY BE ADDED AS NEEDED.

This Notice of Transfer contains an accurate description of the transfer, including all material facts. The owner's failure to provide a notice of transfer or a notice containing fraudulent or material misrepresentations or material omissions creates a rebuttable presumption that the transfer is actually a sale of the Housing Accommodation. Any change in the transfer terms or agreement invalidating an exemption claim shall be reported in writing to the Rental Conversion and Sale Division and to the tenant(s).

Describe the transfer transaction in the space below. If additional space is required, attach a supplemental sheet labeled “SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT B” and attach the supplemental page(s) to this Notice of Transfer.

1

Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit B is attached.

a. The transferor owns a _____ % interest in the Housing Accommodation or an ownership in the corporation, partnership, limited liability company, association, trust, or other entity which owns the Housing Accommodation. The transferor proposes to transfer a _____ % interest to the transferee. As a result, the transferee will hold a _____ % ownership interest.

b. Describe the material facts of the transfer.

[illegible]

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c. The owner represents that the transfer of ownership interest is not a sale of the Housing Accommodation under the Sale Act for the ground(s) stated in Item 2.b. above, and the tenant organization does not have the right to purchase the Housing accommodation for the following reason(s):

d. Is the Housing Accommodation being transferred for purposes of receiving tax benefits under title 26, section 42 of the United States Code or a comparable District program? YES ☐ NO ☐ If yes, describe the applicable federal or District subsidy and describe steps taken in the transaction to receive the subsidy. If additional space is required, attach a separate page labeled "SUPPLEMENTAL ATTACHMENT TO THE NOTICE OF TRANSFER, EXHIBIT C."

☐ Check here ONLY if a Supplemental Attachment to the Notice of Transfer, Exhibit C is attached.

4. TENANT ORGANIZATION'S RIGHT TO CHALLENGE THE NOTICE OF TRANSFER.

Only a tenant organization has a right to challenge the housing accommodation transfer. To challenge the Notice of Transfer, a tenant organization must file a notice of intent to file for relief with the owner and the Rental Conversion and Sale Division indicating whether the tenant organization will make a challenge in the D.C. Superior Court of the District of Columbia or with the D.C. Office of Administrative Hearings ("**Notice of Intent to Petition for Relief**"). Within thirty (30) days after filing the Intent to File a Petition for Relief, the tenant organization must file a petition for relief either in the D.C. Superior Court or the D.C. Office of Administrative Hearings.

NOTE: If a tenant organization does not file a challenge within the prescribed timeframes, then the tenant organization cannot assert any rights under the Sale Act with respect to the transfer.

a. Tenant Organization Registration. Only a tenant organization has a right to challenge the housing accommodation transfer. To challenge the Notice of Transfer, the tenants must form and register a tenant organization with the legal ability to hold real property with both

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the Rental Conversion and Sale Division and the owner. Upon registration, the tenant organization is the tenants' sole representative with authority to act on the tenants' behalf. Both newly-formed or existing tenant organizations must submit a registration application to challenge the Notice of Transfer.

A tenant organization registration application shall include: (1) a notarized registration application; (2) a list of tenant members representing the majority of the heads of households in the housing accommodation as of the time of registration; (3) information regarding the elected officers; and (4) copies of the tenant organization articles of incorporation, certification of incorporation and bylaws. The tenant organization registration application must be either sent by certified mail or hand-delivered to both the owner and the Rental Conversion and Sale Division. Upon registration, the tenant organization is the tenants' sole representative with authority to act on the tenants' behalf.

b. If the Owner Does Not Claim a Transfer Exemption. If the owner does not claim that the transfer is an exempt transaction under the Sale Act, a tenant organization wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within forty-five (45) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.

c. If the Owner Claims a Transfer Exemption. If the owner claims a transfer exemption under the Sale Act, a tenant organization wishing to challenge the transfer may file a Notice of Intent to Petition for Relief within thirty (30) days of the Rental Conversion and Sale Division's receipt of the Notice of Transfer.

d. Service of the Intent to File a Petition for Relief. A tenant organization challenging the transfer must deliver the Notice of Intent to Petition for Relief by registered or certified mail, return receipt requested, by commercial overnight delivery service that maintains proof of delivery, or by personal service to the Rental Conversion and Sale Division and the owner on the same day. The owner's address is stated in the Notice of Transfer. **Faxing or emailing the Notice of Intent to Petition for Relief is NOT proper delivery.**

e. Tenant Organization's Petition for Relief. Within thirty (30) days of the Rental Conversion and Sale Division's receipt of the tenant organization's Notice of Intent to Petition for Relief, a tenant must file a petition for relief under § 42-3405.03 or § 42-3405.03a of the Sale Act ("**Petition**"). The tenant organization must deliver a copy of the Petition to the owner by registered or certified mail, return receipt requested, or by personal service. **Faxing or emailing the Petition is NOT proper delivery.**

NOTE: If a tenant organization does not file a Petition within the prescribed timeframe, then the tenant organization cannot assert any rights under the Sale Act with respect to the transfer.

5. SUMMARY OF TENANT RIGHTS IF THE TRANSACTION IS DETERMINED TO BE A SALE.

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The following is an outline of tenant statutory rights if the proposed transfer is determined to constitute a sale of a housing accommodation under the Sale Act.

a. Offer Period. Upon receipt of a written offer of sale from the owner that includes a description of the tenant's rights and obligations, or upon the Rental Conversion and Sale Division's receipt of a copy of the written offer of sale, whichever date is later, if there is an existing tenant organization, the tenant organization shall have thirty (30) days to provide the owner and the Rental Conversion and Sale Division with a tenant organization registration package including a written statement accepting the owner's offer of sale by certified mail or hand-delivery. If there is no existing tenant organization, the tenants shall have forty-five (45) days to form and register a tenant organization and provide the owner and the Rental Conversion and Sale Division with a tenant organization registration package including a written statement accepting the owner's offer of sale by certified mail or hand-delivery. The written acceptance statement shall be a clear expression of interest on the part of the tenant organization to exercise the opportunity to purchase.

A tenant organization registration package shall include: (1) a written statement accepting the owner's offer to sell the housing accommodation; (2) a list of tenant members representing the majority of the heads of households in the housing accommodation as of the time of registration; (3) information regarding the elected officers; and (4) copies of the tenant organization articles of incorporation, certification of incorporation and bylaws. Upon registration, the tenant organization is the tenants' sole representative with authority to act on the tenants' behalf.

b. Negotiation Period. If a tenant organization provides a written acceptance statement, the owner shall afford the tenant organization a reasonable period to negotiate and ratify a contract of sale, and shall not require less than one hundred twenty (120) days.

c. Price & Material Terms. The owner must inform the tenant organization of the sale price and the material terms of sale and the type of financing arrangements, if any, the owner will accept at settlement.

d. Deposit. At the time of contracting, the tenant organization is required to deposit no more than five (5) percent of the contract sale price. This deposit, and accrued interest, is refundable in the event there is a good faith inability to perform under the sale contract.

e. Settlement Period. After the owner and tenant organization ratify the sale contract, the tenant has a minimum of one hundred twenty (120) days to secure financing or financial assistance and settle on the purchase of the housing accommodation. If a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within two hundred forty (240) days after the sale contract is ratified, however, the owner will provide the tenant with an extension of time consistent with the written estimate.

f. Information. Within seven (7) days of receiving a written request for the information, if applicable, the owner shall provide the tenant organization with copies of: (1) a floor plan of the housing accommodation, if available; (2) an itemized list of monthly operation

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expenses; (3) utility consumption rates and capital expenditures for each of the two (2) preceding calendar years; and (4) the most recent rent roll, listing of tenants and a list of vacant rental units.

g. Third Party Sale Contract & Right of First Refusal. If the owner ratifies a third party sale contract, the owner must provide a copy of the ratified third party sale contract to the tenant organization. The tenant organization will have an additional fifteen (15) days to match the third party sale contract. If a written statement accepting the owner's offer to sell the housing accommodation is submitted, the fifteen (15) day Right of First Refusal time period will commence at the end of the negotiation time period.

h. New Offer of Sale. The owner shall issue a new offer of sale if the owner sells or signs a sale contract with a third party purchaser for a price that is more than ten (10) percent less than the price offered to the tenant organization or for other terms which would constitute bargaining without good faith. In addition, if the owner has not contracted or sold this housing accommodation within one hundred eighty (180) days from the date of the offer of sale, and, if the owner still desires to sell the housing accommodation at that time, the owner must comply anew with the provisions of the Sale Act.

i. Waiver. A tenant is prohibited from waiving the right to receive an offer of sale. A tenant organization may, however, waive any other tenant rights in exchange for any consideration which the tenant organization finds acceptable in its sole discretion and in accordance with applicable law.

j. Assistance. For information concerning technical and financial assistance, a tenant may contact University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development, Development Finance Division on (202) 442-7200, the Rental Conversion and Sale Division on (202) 442-9505, or the D.C. Office of the Tenant Advocate on (202) 719-6560.

6. NOTICE OF TRANSFER INFORMATION.

If you have any questions about the transfer of ownership interest to the transferee described in this Notice of Transfer, please call _____ on telephone number _____.

Sincerely,

OWNER:

by: _____
Its: _____
[signatory's title if owner is an entity]

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cc: 1 copy of the Notice of Transfer, the owner's certificate of service and a list of all tenants
and corresponding units to:

District of Columbia Department of Housing and Community Development (Jan. 2010)
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020
Telephone (202) 442-9505
www.dhcd.dc.gov

**DEPARTMENT OF HUMAN SERVICES
FAMILY SERVICES ADMINISTRATION**

**PUBLIC NOTICE OF NEW
PERMANENT SUPPORTIVE HOUSING PLACEMENTS**

The District of Columbia Department of Human Services Announces the Availability of 150 new placements for Individuals and 25 new placements for Families in the Department of Human Services, Permanent Supportive Housing Program, and Information About How Individuals and Families May Take or Update a Vulnerability Assessment, in order to be Considered for referral to the Permanent Supportive Housing Program.

The District of Columbia, Department of Human Services (DHS), Family Services Administration (FSA), hereby gives public notice of 150 new placements for individuals and 25 new placements for families in its Permanent Supportive Housing Program (PSH Program).

Referral for available placements in the PSH Program shall be prioritized based on an individual's or family's score on a vulnerability assessment administered by the PSH Program. The highest scores shall be prioritized to receive the available referrals. Information provided in a vulnerability assessment may be subject to verification by the PSH Program.

DHS shall conduct vulnerability assessments with individuals and families in the District of Columbia living on the street and in shelters through at least April 9, 2010. Any person living in a District of Columbia shelter or on the street may take a vulnerability assessment. Any individual or family who has already completed a vulnerability assessment may update the assessment with new information.

How You Can Take or Update Your Vulnerability Assessment

- Individuals and Families in a shelter or other homeless services program should see the program's case manager, who will administer or update the vulnerability assessment.
- Individuals on the street or doubled up may take or update the vulnerability assessment at:
 - **Community Council for the Homeless at Friendship Place**
4713 Wisconsin Avenue NW *Mondays (9:00 AM – 11:30 AM)*
 - **Thrive DC at (St. Stephen's Church)**
1525 Newton Street NW *Wednesdays (11:00 AM – 2:00 PM)*
 - **Community for Creative Non-Violence**
425 2nd Street NW *Fridays (9:00 AM – 1:00 PM)*

- Families not residing in shelter or in another homeless services program may take or update the vulnerability assessment at the Virginia Williams Family Resource Center, 920 Rhode Island Avenue, NE on Tuesdays and Thursdays from 10:00 a.m. to 1:00 p.m., or call Kareen Taybron at 202-698-3419 to make an appointment.

For more information about obtaining, taking, or updating a vulnerability assessment in order to be considered for the DHS Permanent Supportive Housing Program, please contact by telephone or email:

Bettie Berkely
Program Support Specialist
Department of Human Services
Family Services Administration
645 H Street, NE,
Washington, DC 20002
bettie.berkely@dc.gov
(202) 698-4166

**NATIONAL COLLEGIATE PREPARATORY PUBLIC CHARTER HIGH SCHOOL
REQUEST FOR PROPOSALS**

Food Service

National Collegiate Preparatory Public Charter High School will receive bids on/for the delivery of breakfast, lunch, and/or snack to children enrolled at the school for the 2010-2011 school year. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch and Snack meal pattern requirements. Interested companies or organizations should mail or email proposals to Ms. L. Crowder (lcrowder@nationalprepd.org), 908 Wahler Place, SE Washington, DC 20032. Closing date is Tuesday 3/26/2010.

Special Education Services

National Collegiate Preparatory Public Charter High School is seeking bids for Special Education Services, to include but not limited to the following; Special Education Evaluations, Crisis Management Workshops, Group Therapy, individual Therapy, Occupational Therapy, Physical Therapy, Speech Therapy, Group and Individual Therapy. Bids must include evidence of experience in the field, the qualifications of principles and estimated fees. Interested candidates should mail or email proposals to Ms. L. Crowder (lcrowder@nationalprepd.org), 908 Wahler Place, SE Washington, DC 20032. Closing date is Tuesday 3/26/2010.

School and Office Supplies

National Collegiate Preparatory Public Charter High School will receive bids for the delivery of school and office supplies. Interested companies should mail or email proposals to Ms. L. Crowder (lcrowder@nationalprepd.org), 908 Wahler Place, SE Washington, DC 20032. Closing date is Tuesday 3/26/2010.

Educational Technology Support

National Collegiate Preparatory Public Charter High School is seeking to be a dual platform school and is seeking bids for computer support for both PC and Macintosh. Duties will include upgrading, troubleshooting, network support, and working with an in-house technology specialist and administration. Please submit hourly or other rate sheets. Bids must include qualifications, rate sheets, estimated fees, proposed hours required, and 2 references. Interested candidates should mail or email proposals to Ms. L. Crowder (lcrowder@nationalprepd.org), 908 Wahler Place, SE Washington, DC 20032. Closing date is Tuesday 3/26/2010.

Furniture and Equipment

National Collegiate Preparatory Public Charter High School invites proposals for procurement of furniture, and equipment for the 2010-2011 school year. Proposals are to be received by Ms. L. Crowder (lcrowder@nationalprepd.org), 908 Wahler Place, SE Washington, DC 20032. Closing date is Tuesday 3/26/2010.

Consultancy

National Collegiate Preparatory Public Charter High School will receive bids for the following; curriculum development, education technology, planning and implementation, extended day program development and implementation, International Baccalaureate Diploma Programme planning and evaluation, and staff/professional development planning and implementation. Proposals are to be received by Ms. L. Crowder (lcrowder@nationalprepd.org), 908 Wahler Place, SE Washington, DC 20032. Closing date is Tuesday 3/26/2010.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been newly appointed as Notaries Public in and for the District of Columbia, effective on or after April 1, 2010.

Comments on these appointments should be submitted, in writing, to Granville M. Woodson, Director, Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on March 26, 2010. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

**D.C. Office of the Secretary
Appointments of Notaries Public****Effective: April 1, 2010
Page 2**

Adjmul	Imran	PNC Bank 7601 Georgia Avenue, NW	20012
Bailey	Tanesha J.	Jair Lynch Development Partners 1508 U Street, NW	20009
Baker	Stephanie A.	Bredhoff & Kaiser, PLLC 805 15th Street, NW, Suite 1000	20005
Beckwith	Gwendolyn J.	Classic Concierge 1015 15th Street, NW, Suite LL2	20005
Boileau	Lynne M.	Capitol Title Insurance Agency, Incorporated 1104 17th Street, NW	20036
Bonner	Alicia S.	Institute for the Study of War 1400 14th Street, NW, Suite 515	20036
Bracey	Remy L. H.	LeClair Ryan 1101 Connecticut Avenue, NW, Suite 600	20036
Branch	Ashley	Department of Commerce Federal Credit Union 14th and Constitution Avenue, NW	20230
Brewton	Hiram K.	Downtown DC Business Improvement District 1250 H Street, NW	20005
Brooks	Lisa	PNC Bank 7601 Georgia Avenue, NW	20012
Brown	Tilethia J.	Department of Housing & Urban Development 451 7th Street, SW, Room 2237	20410
Burns	Constance A.	National Association of American Veterans, Incorporated (NAAV) 1725 I Street, NW, Suite 300	20006
Camilo	Sandy A.	Old Republic National Title Insurance Company 1667 K Street, NW, Suite 610	20006
Canlas, Jr.	Eduardo T.	Transportation Federal Credit Union 800 Independence Avenue, SW	20591

D.C. Office of the Secretary
Appointments of Notaries PublicEffective: April 1, 2010
Page 3

Carn	Judy	Self 525 7th Street, NE, #303	20002
Carter	Jennifer L.	New System Demolition & Excavation, Incorporated 3127D Martin Luther King Jr., Avenue, SE	20032
Caruth	Leanora C.	DC Government Office of Tax and Revenue 941 North Capitol Street, NE	20002
Cerullo	Robert J.	Rock Creek Title, LLC 926 North Carolina Avenue, SE	20003
Coleman-Thompson	Jamila	PNC Bank, NA 4100 South Capital Street, SE	20032
Crisci	Michael L.	Capital City Construction, LLC 118 Park Road, NW	20010
Cunningham	Francine	Department of Housing & Urban Development 451 7th Street, SW, Room 2237	20410
Darrah	Jeffrey	District Title 1707 L Street, NW, Suite 1020	20036
Derr	Stephanie	Georgetown University, Project Management Department 3700 O Street, NW New South Building, Room B04	20057
Diggs	Garren L.	Naval Facilities Engineering Command Washington 1314 Harwood Street, SE, Washington Navy Yard DC	20374
Dill	Amber L.	Capital Reporting Company 1821 Jefferson Place, NW, 3rd Floor	20036
Dixon	Danielle S.	Eagle Bank 1725 Eye Street, NW	20006

**D.C. Office of the Secretary
Appointments of Notaries Public**
Effective: April 1, 2010
Page 4

Douglas	John-Paul A.	Chicago Title Insurance Company 2000 M Street, NW, Suite 610	20036
Dubendorf	Bonnie	Health Right, Incorporated 1101 14th Street, NW, Suite 900	20005
Dunning	Laura L.	Akin Gump Strauss Hauer & Feld LLP 1333 New Hampshire Avenue, NW	20036
Edwards	Doris	Blanchard's Contracting, LLC 601 Pennsylvania Avenue, NW, Suite 900 South Bldg	20002
Falk	B. Joanna	Arent Fox, LLP 1050 Connecticut Avenue, NW	20036
Flowers	Larry Edward	Ace-Federal Reporters, Incorporated 616 H Street, NW, Suite 550	20001
Goldman	Judith R.	Greenstein, DeLorme & Luchs 1620 L Street, NW, Suite 900	20036
Griffith	Angela M.	The Estate Planning & Elder Law Firm, PC 1111 19th Street, NW, Suite 760	20036
Gross-Bethel	Jean M.	Office of the People's Counsel for the District of Columbia 1133 15th Street, NW, Suite 500	20005
Hammond	Margaret E.	Patton Boggs, LLP 2550 M Street, NW	20037
Hargrove	Karen	US Department of Agriculture 1400 Independence Avenue, SW	20250
Harris	Jermell E.	Eagle Bank Corp 1044 Wisconsin Avenue, NW	20007
Heer III	Raymond R.	Alderson Reporting Company 1155 Connecticut Avenue, NW, Suite 200	20036

**D.C. Office of the Secretary
Appointments of Notaries Public**
**Effective: April 1, 2010
Page 5**

Henderson	Marquita Antoinea	Eagle Bank 2001 K Street, NW	20006
Hoyle	Cheryl Y.	Karen Pratt Insurance Agency 1009 U Street, NW	20001
Iglesias	Carlos R.	Bello, Bello & Associates LLC 900 2nd Street, NE, Suite 6	20002
Jackson	Stellvonne	Woodley House, Incorporated 1221 Taylor Street, NW	20011
Jackson	Mark N.	North American Title Company 5301 Wisconsin Ave. NW Suite 100	20015
Jackson	Tisha S.	Zuckerman Spaeder, LLP 1800 M Street, NW, Suite 1000	20036
Jakulla	Aaron Reynold W	Eagle Bank 1725 Eye Street, NW	20006
Jeffries	Sharon D.	DC Retirement Board 900 7th Street, NW, 2nd Floor	20001
Johnson	Julia	Family Corporation Counsel 441 4th Street, NW, Suite 650 North	20001
Kalimon	Catherine O.	American Heath Care Association 1201 L Street, NW	20005
Kaniewski	Mary May	American Federation of Teachers 555 New Jersey Avenue, NW	20001
Khan	Faizul R.	Self 2122 Massachusetts Avenue, NW, Suite 503	20008
Kinealy, Jr.	David Thomas	Law Office of Steven Weinberg 2141 P Street, NW, Suite 103	20037

**D.C. Office of the Secretary
Appointments of Notaries Public**
Effective: April 1, 2010
Page 6

Kinley	Sook J.	State Plaza Hotel 2117 E Street, NW	20037
Lader	Gwendolyn	Russ Reid Company 2000 L Street, NW, Suite 350	20036
Lathon	Darlene W.	Katten Muchin Rosenman LLP 2900 K Street, NW, Suite 200	20007
Leeling	Melissa M.	Cadeaux, Taglieri & Notarius, PC 1100 Connecticut Avenue, NW, Suite 800	20036
Lewis	Sheryl S.	The Warrenton Group 5335 Wisconsin Avenue, NW, Suite 440	20015
Long	Bernedia C.	Self 2528 Naylor Road, SE, Apt. 202	20020
Mannix	Barbara A.	Fish & Richardson, PC 1425 K Street, NW, 11th Floor	20005
Matthews	Shawn Michael	Eagle Bank 1425 K Street, NW	20005
McClane	Ashley C.	Law Offices of Stewart & Stewart 2100 M Street, NW, Suite 200	20037
McGale	Shirley S. M.	PNC Bank, NA 833 7th Street, NW	20001
McGhee-Starke	Yivetta J.	Reno & Cavanaugh, PLLC 455 Massachusetts Avenue, NW, Suite 400	20001
McGregor	Theresa A.	American Psychological Association 750 First Street, NE	20002
McKenzie	Meghan	West, Lane & Schlager 1155 Connecticut Avenue, NW, Suite 700	20036
McMillian III	Donald C.	Hansen & Associates, P.C. 419 7th Street, NW, Suite 405	20004

**D.C. Office of the Secretary
Appointments of Notaries Public**
**Effective: April 1, 2010
Page 7**

Miller	Rachael	Capital Reporting Company 1821 Jefferson Place, NW, 3rd Floor	20036
Minor	Beverley A.	Administrative Office of the United States Courts One Columbus Circle, NE, Suite 3-170	20544
Mutersbaugh	Linda L.	RB Properties, Incorporated 1054 31st Street, NW, Suite 1000	20007
Naughten	Christopher F.	Old Republic National Title Insurance Company 1667 K Street, NW, Suite 610	20006
Ndiaye	Ibrahima Vincent	Wachovia Bank, NA 2119 Bladensburg Road, NE	20018
Nestor	Marie Solange	DC Child and Family Services Agency 400 6th Street, SW	20024
O'Connor	Margaret	The Travelers Companies, Incorporated 700 13th Street, NW, Suite 950	20005
Outlaw	Carthenia	Owusu & Company 1101 15th Street, NW, Suite 1002	20005
Owen	Diana	The Justin Company, Incorporated 6400 Georgia Avenue, NW, Suite 9	20012
Perdue	Victoria Lynn	Schulze & Pederson 5039 Connecticut Avenue, NE, #3	20008
Plews	Susan M.	Society of Mary, US Province 815 Varnum Street, NW	20017
Pope	Nicole Marie	Mathematica Policy Research, Incorporated 600 Maryland Avenue, SW, Suite 550	20024
Queen	Antoinette G.	Southern Baptist Church Praise and Worship Center 134 L Street, NW	20001
Rice	Carolyn E.	PNC Bank 4249 Wisconsin Avenue, NW	20016

**D.C. Office of the Secretary
Appointments of Notaries Public**
Effective: April 1, 2010
Page 8

Rivasplata	Jorge C.	Eagle Bank 2001 K Street, NW	20006
Robinson	Vickie L.	International Research & Exchanges Board 2121 K Street, NW, Suite 700	20037
Schneider	Kevin	TD Bank 605 14th Street, NW	20005
Selman	David C.	Self 1331 Gallatin Street, NW	20011
Seyoum	Hagos A.	Self 907 T Street, NW	20001
Shifflett	Justin Lawrence	Schulze & Pederson 5039 Coonecticut Avenue, NE, #3	20008
Silver	Leslie C.	Silver, McGowan & Silver, PC 1612 K Street, NW, Suite 1204	20006
Spolrich	Amy L.	C-SPAN 400 North Capitol Street, NW, Suite 650	20001
Stevens	Tiffany A.	Professional Healthcare Resources 1010 Wisconsin Avenue, NW, Suite 300	20007
Tefera	Kassahun	Metro Lab LLC 911 U Street, NW	20001
Townsend	Jean M.	Gore Brothers Court Reporting 1025 Connecticut Avenue, NW, Suite 1000	20036
Vice	Teresa Christine Joan	Save Darfur Coalition 1025 Connecticut Avenue, NW, Suite 310	20036
Walder	Barbara J.	Reno & Cavanaugh, PLLC 455 Massachusetts Avenue, NW, Suite 400	20001

**D.C. Office of the Secretary
Appointments of Notaries Public****Effective: April 1, 2010****Page 9**

Walker, Jr.	Fred Albert	Al Betz & Associates, Incorporated 1425 K Street, NW, Suite 350	20005
White	Tiffane	Self 505 Brummel Court, NW	20012

D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION**MEETING**

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice that the Commission will meet at 5:00 p.m. on March 30, 2010, in Room 1117 at 441 Fourth St., N.W., Washington, D.C. Inquiries concerning the meeting may be addressed to Kenneth Cowgill, Attorney Advisor, at 202-727-7934 or kenneth.cowgill@dc.gov.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17474-C of ASR Group, Inc. by Metro Properties, Inc., pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 772, and a variance from the residential recreation space requirements under section 773, to allow the construction of a new apartment building in the C-2-A District, at premises 1300 Rhode Island Avenue, N.E. (Square 3956, Lot 801).

HEARING DATE (Orig. Application): May 23, 2006
DECISION DATE (Orig. Application): May 23, 2006
FINAL ORDER ISSUANCE DATE (Orig. Application): June 6, 2006
FIRST MODIFICATION: April 1, 2008
FIRST MODIFICATION ORDER ISSUED: April 2, 2008 (No. 17474-A)
SECOND MODIFICATION: November 3, 2009
SECOND MODIFICATION ORDER ISSUED: November 13, 2009 (No. 17474-B)
DECISION ON MOTION TO EXTEND ORDER: March 2, 2010

**ORDER ON MOTION TO EXTEND
THE VALIDITY OF BZA ORDERS NO. 17474, 17474-A, and 17474-B**

The Underlying BZA Orders

On May 23, 2006, the Board of Zoning Adjustment (the Board or BZA) approved the Applicant's request for variance relief from lot occupancy and residential recreation space requirements, to allow the construction of a new apartment building in the C-2-A District. Thus, pursuant to 11 DCMR § 3103.2, the Board granted variances from the lot occupancy requirements under section 772 and from the residential recreation requirements under 773, to allow the construction of an apartment building in the C-2-A District, at premises 1300 Rhode Island Avenue, N.E. (Square 3956, Lot 801). The Order was issued June 6, 2006. (BZA Order 17474).

A request for approval of a minor modification of plans was approved by the Board in Order No. 17474-A, dated April 2, 2008. Order No. 17474-A became effective on April 12, 2008 and remained effective for two years from the effective date, namely, until April 12, 2010.

Thereafter, a second request for approval of a minor modification of plans was approved by the Board in Order No. 17474-B, dated November 13, 2009. Order No. 17474-B approved the construction of an apartment building containing 263 units and 136 parking spaces pursuant to modified plans. (Exhibit 37, Attachment C – Revised

BZA APPLICATION NO. 17474-C

PAGE NO. 2

Plans). In Order No. 17474-B, which approved the second redesign of the project, the Board indicated that the second request for a minor modification of plans did not alter the term limit on the Board's action previously approved and that Order No. 17474-B would remain valid for the same term previously adopted in the first modification order, Order No. 17474-A, that is, until April 12, 2010.

Under the first modification Order, which in this case refers to Order No. 17474-A, and pursuant to § 3130.1 of the Zoning Regulations, the Order was valid for two years from the time it was issued – until April 12, 2010.

Section 3130.1¹ states:

No order [of the Board] authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic Equipment Facility (EEF), unless within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.

(11 DCMR § 3130.1)

Motion to Extend

On January 13, 2010, the Board received a letter from the Applicant, which requested, pursuant to 11 DCMR §3130.6,² a two-year extension in the authority granted in the underlying BZA Orders, which were due to expire April 12, 2010. (Exhibit 41).

The Applicant is requesting a two-year extension in the authority granted in the underlying BZA Orders because, due to the deterioration of national and local economic conditions and particularly its effect on the unavailability of credit for new residential and commercial real estate projects, the Applicant has been unsuccessful in obtaining financing to allow the project to proceed. Eight potential lenders and equity investors had indicated that they would be unable to pursue formal arrangements for financing until the building was redesigned and reduced in size so as to reduce construction costs and that there was certainty that the BZA would approve such a redesign. While the Applicant was able to obtain BZA approval of a redesign in Order No. 17474-B, effective November 23, 2009, there remained insufficient time after that approval in which to meet the pending deadline of April 12, 2010 for the filing of a building permit application. To have sufficient time in which to obtain financing and

¹ Section 3130.1 was amended by the addition of the phrase "except as permitted in § 3130.6" by the Zoning Commission in Z.C. Case No. 09-01. The amendment became effective on June 5, 2009.

² Section 3130.6 was adopted by the Zoning Commission in Z.C. Case No. 09-01 and became effective on June 5, 2009.

BZA APPLICATION NO. 17474-C

PAGE NO. 3

enter into predevelopment work, the Applicant seeks a two-year time extension of that date. The Applicant indicated that he does not have sufficient time to undertake the necessary geotechnical, surveying, environmental, and other engineering work necessary to prepare an application for a building permit during the time period subsequent to the November 23, 2009 effective date of BZA Order No. 17474-B and the April 12, 2010 deadline. Moreover, the Applicant indicates that he believes that he has identified a builder who can deliver the project within the scope of the revised plans approved by the Board in Order No. 17474-B and that the revised project has a good probability of obtaining financing. (Exhibit 41). The extension would allow the Applicant the additional time in which to secure the permits and financing.

Accordingly, the Applicant requested that, pursuant to § 3130.6 of the Regulations, the Board extend the validity of its prior Order for an additional two years, thereby allowing the Applicant additional time to secure financing and apply for a building permit.

Criteria for Evaluating Motion to Extend

The Zoning Commission adopted 11 DCMR § 3130.6 in Zoning Commission Case No. 09-01. The Section became effective on June 5, 2009.

Section 3130.6 of the Zoning Regulations states in full:

- 3130.6 The Board may grant one extension of the time periods in §§ 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:
- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
 - (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application; and
 - (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria:

BZA APPLICATION NO. 17474-C

PAGE NO. 4

- (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;
- (2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or
- (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

(11 DCMR § 3130.6)

The Board finds that the Applicant has met the criteria set forth in this provision. The filing of the motion on January 13, 2010, prior to the expiration date, tolled the effect of the order. The request was served on all the parties to the application and those parties were given 30 days in which to respond under § 3130.6(a). The Applicant's inability to secure the necessary permits and financing and the poor economic conditions in the District constitute the "good cause" required under § 3130.6(c)(1).

As required by § 3130.6(b), there is no substantial change in any of the material facts upon which the Board based its original approval. In requesting this extension of the Order, the Applicant's plans for development of the site would be unchanged from those approved by the Board in its Order dated November 23, 2009 (Exhibit No. 37, Attachment C – Revised Plans in the record). There have been no changes to the zone district classification applicable to the property or to the Comprehensive Plan affecting this site since the issuance of the Board's Order.

Neither the ANC nor any party to the application objected to an extension of the Order. The Board concludes that the extension of that relief is appropriate under the current circumstances.

Accordingly, pursuant to § 3130.6 of the Regulations, the Board hereby extends the validity of the underlying Order, for a period not to exceed two years from the current expiration date, thereby establishing a new expiration date of April 12, 2012.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this request for extension of time be **GRANTED** until April 12, 2012.

BZA APPLICATION NO. 17474-C

PAGE NO. 5

VOTE: 3-0-2 (Marc D. Loud, Meridith H. Moldenhauer, Nicole C. Sorg to approve; no other Board members participating, nor voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 10, 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17723-A of Bozzuto Development Company, pursuant to 11 DCMR § 3103.2, for a variance from the parking requirements under subsection 2101.1, a variance from the loading requirements under subsection 2201.1, and variances from the lot occupancy and nonconforming structure requirements under subsections 772 and 2001.3, respectively, to allow the construction of a residential building in the DD/C-2-C District, at premises 460 New York Avenue, N.W. (Square 515N, Lot 828).

HEARING DATE (Orig. Application): February 26, 2008

DECISION DATE (Orig. Application): February 26, 2008 (Bench Decision)

FINAL ORDER ISSUANCE DATE (Orig. Application): March 28, 2008

DECISION ON MOTION TO EXTEND ORDER: March 2, 2010

**ORDER ON MOTION TO EXTEND
THE VALIDITY OF BZA ORDER NO. 17723**

The Underlying BZA Order

On February 26, 2008, the Board of Zoning Adjustment (the Board or BZA) approved the Applicant's request for variance relief from the requirements of parking, loading, and lot occupancy and nonconforming structure, to allow the construction of a residential building in the DD/C-2-C District. Thus, pursuant to 11 DCMR § 3103.2, the Board granted variances from the parking requirements under § 2101.1, from the loading requirements under § 2201.1, and from the requirements of lot occupancy and nonconforming structure under §§ 772 and 2001.3, to allow the construction of a residential building in the DD/C-2-C District, at premises 460 New York Avenue, N.W. (Square 515N, Lot 828). The Order was issued March 28, 2008. (BZA Order 17723)

Under the Order, and pursuant to § 3130.1 of the Zoning Regulations, the Order was valid for two years from the time it was issued – until March 28, 2010.

Section 3130.1¹ states:

No order [of the Board] authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic Equipment Facility(EEF), unless within such period, the plans

¹ Section 3130.1 was amended by the addition of the phrase “except as permitted in § 3130.6” by the Zoning Commission in Z.C. Case No. 09-01. The amendment became effective on June 5, 2009.

BZA APPLICATION NO. 177 23-A

PAGE NO. 2

for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.

(11 DCMR § 3130.1)

Motion to Extend

On January 29, 2010, the Board received a letter from the Applicant, which requested, pursuant to 11 DCMR §3130.6,² a two-year extension in the authority granted in the underlying BZA Order, which was due to expire March 28, 2010. (Exhibit 38). The Board received additional, supplemental material from the Applicant in support of the request for a time extension, pursuant to §3130.6. (Exhibit 41).

The Applicant is requesting a two-year extension in the authority granted in the underlying BZA Order because, due to the deterioration of the real estate market in Washington, D.C., the Applicant has been unable to obtain the necessary financing commitment to begin the building renovation and construction, despite attempts to obtain financing for the project. The Applicant also cited the decrease of residential leasing activity in the Downtown area which has resulted in a negative absorption rate, leading to a residential market that has become too soft for the introduction of new space. Despite the lack of financing, the Applicant has still funded work on plans and construction drawings necessary to apply for a building permit from the Department of Consumer and Regulatory Affairs for the Project. (Exhibit 38).

Several responses to the Applicant's motion were filed, one from the Office of Planning (OP) and the other from the affected Advisory Neighborhood Commission (ANC). The Office of Planning (OP) issued a report in support of the time extension, and requested that the Applicant submit documentation of, or a notarized description of, its unsuccessful attempts to secure financing. (Exhibit 40). The Applicant responded by filing the documentation OP requested, including two signed and notarized affidavits. (Exhibit 41).

The project is within the boundaries of ANC 6C. ANC 6C filed a report in support of the motion and project. (Exhibit 39).³

² Section 3130.6 was adopted by the Zoning Commission in Z.C. Case No. 09-01 and became effective on June 5, 2009.

³ The ANC's report sought to have the Applicant address two issues, having asked that the developer: (1) put into place a maintenance plan for upkeep of the property during the two-year period; and (2) explore ways to make the structure a contributing use to the community during the extension of time. (Exhibit 39). In response the Applicant attached a Site Maintenance Plan (Exhibit 41, Attachment C) so as "to ameliorate the effects of the Property's vacancy prior to the beginning of construction under the Order" and indicated

BZA APPLICATION NO. 177 23-A

PAGE NO. 3

According to the Applicant, the reasons for its request to the Board to extend the time of the Order are because of its inability to secure financing in an unstable economic market and market conditions in the District. The extension would allow the Applicant the additional time in which to secure the permits and financing. Accordingly, the Applicant requested that, pursuant to § 3130.6 of the Regulations, the Board extend the validity of its prior Order for an additional two years, thereby allowing the Applicant additional time to secure financing and apply for a building permit.

Criteria for Evaluating Motion to Extend

The Zoning Commission adopted 11 DCMR § 3130.6 in Zoning Commission Case No. 09-01. The Section became effective on June 5, 2009.

Section 3130.6 of the Zoning Regulations states in full:

- 3130.6 The Board may grant one extension of the time periods in §§ 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:
- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
 - (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application; and
 - (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria:
 - (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;
 - (2) An inability to secure all required governmental agency approvals by the expiration date of the

its willingness to "meet with [the ANC] and surrounding neighbors to explore the feasibility of potential interim uses for the Property prior to the construction of the project...." (Exhibit 41).

BZA APPLICATION NO. 177 23-A

PAGE NO. 4

Board's order because of delays that are beyond the applicant's reasonable control; or

- (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

(11 DCMR § 3130.6)

The Board finds that the Applicant has met the criteria set forth in this provision. The filing of the motion on January 29, 2010, prior to the expiration date, tolled the effect of the order. The request was served on all the parties to the application and those parties were given 30 days in which to respond under § 3130.6(a). The Applicant's inability to secure the necessary permits and financing and the poor economic conditions in the District constitute the "good cause" required under § 3130.6(c)(1).

As required by § 3130.6(b), there is no substantial change in any of the material facts upon which the Board based its original approval. In requesting this extension of the Order, the Applicant's plans for development of the site would be unchanged from those approved by the Board in its Order dated March 28, 2008 (Exhibit No. 34 in the record). There have been no changes to the zone district classification applicable to the property or to the Comprehensive Plan affecting this site since the issuance of the Board's Order.

Neither the ANC nor any party to the application objected to an extension of the Order. The Board concludes that the extension of that relief is appropriate under the current circumstances.

Accordingly, pursuant to § 3130.6 of the Regulations, the Board hereby extends the validity of the underlying Order, for a period not to exceed two years from the current expiration date, thereby establishing a new expiration date of March 28, 2012.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this request for extension of time be **GRANTED** until March 28, 2012.

VOTE: 3-0-2 (Meridith H. Moldenhauer, Nicole C. Sorg, Marc D. Loud to approve; no other Board members participating, nor voting)

BZA APPLICATION NO. 177 23-A

PAGE NO. 5

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 17902-A of Joseph Park, pursuant to 11 DCMR §§ 3100 and 3101, from an August 29, 2008 decision of the Zoning Administrator to revoke Certificate of Occupancy Permit No. 167331, for a liquor store (Oasis Liquors) in the R-4 District at premises 1179 3rd Street, N.E. (Square 773, Lot 277).

HEARING DATE: April 14, 2009

DECISION DATE: May 12, 2009

CORRECTED ORDER¹

PRELIMINARY MATTERS

On October 24, 2008, Mr. Joseph Park (“Appellant”) filed this appeal with the Board of Zoning Adjustment (“BZA” or “Board”), challenging the revocation of Certificate of Occupancy Permit No. 167331 (“C of O”). The Appellant owns the property located at address 1179 3rd Street, N.E. (“subject property”), and has operated a nonconforming liquor store there since approximately 1986. Due to age, ill health and other factors, the Appellant decided to lease the liquor store operation and the Department of Consumer and Regulatory Affairs (“DCRA”) issued C of O No. 167331 to his lessee, Mikyung Yoon, on May 30, 2008. After issuing the C of O, the Zoning Administrator (“ZA”) determined that the nonconforming liquor store use had been discontinued for at least three years, and that therefore, the C of O issued to Mr. Yoon had to be revoked. The “Notice to Revoke Certificate of Occupancy No. 167331,” dated August 29, 2008 was mailed to the Appellant automatically revoking the C of O 10 business days later.

The Appellant appealed the Notice of Revocation to the Board claiming that there had been no abandonment of the liquor store use, and that the revocation was in error.

The Board heard the appeal on April 14, 2009, but kept the record open for further information from the Appellant, and set a decision date of May 12, 2009. At the May 12th public meeting, the Board voted 3-0-2 to grant the appeal.

FINDINGS OF FACT

The subject property and the nonconforming use

1. The subject property is located at address 1179 3rd Street, N.E., at the corner of 3rd and M

¹On July 23, 2009, Advisory Neighborhood Commission 6C filed a request for reconsideration of the decision in Appeal No. 17902. At a Special Public Meeting on October 27, 2009, the Board of Zoning Adjustment denied the substance of the ANC’s request for reconsideration, but agreed with the ANC’s contention that two Findings of Fact, Nos. 16 and 25, needed to be corrected. This Corrected Order, designated as Order No. 17902-A, contains revised and corrected versions of Findings of Fact Nos. 16 and 25. (A separate order, designated as Order No. 17902-B, denies the substance of the ANC’s request for reconsideration.)

BZA APPEAL NO. 17902-A
PAGE NO. 2

Streets, N.E., in an R-4 zone district.

2. On the subject property is a one-story building built as a commercial building in 1938, which is now the end building of a line of attached row dwellings fronting on 3rd Street.
3. The subject building contains a liquor/convenience store, which is owned by, and has been operated by, the Appellant.
4. The Appellant's store has existed at this location since 1986 and has operated pursuant to a valid Certificate of Occupancy permit ("C of O"), No. B146037, which was issued to the Appellant on July 9, 1986.
5. At some point in, or after, 1986, the Appellant obtained a liquor license, permitting his store to sell liquor.
6. From 1986 until 1997, the subject property was located in a C-M-1 zone district. In 1997, the property was re-zoned to R-4, although the other three corners of the intersection of 3rd and M Streets, N.E., remained zoned C-M-1.
7. Due to the 1997 re-zoning, Appellant's store became a nonconforming use. 11 DCMR § 199.1, definition of "Use, nonconforming."
8. Discontinuance of a nonconforming use for a period of more than three years is construed as *prima facie* evidence of an intention not to resume active operation of the use. Any subsequent use must conform to the regulations of the district in which the use is located. 11 DCMR § 2005.1.

History leading to this appeal

9. At some point in 2003/2004, the Appellant began experiencing health problems, causing him to reduce the amount of time that his store was open.
10. Through September, 2006, the Appellant continued to operate his store only sporadically - one or two days a week, or less - as his health permitted.
11. The Appellant's Basic Business License, which permitted him to operate his store, last expired on July 31, 2003, and was not renewed.
12. The Alcoholic Beverage Regulation Administration of the District of Columbia ("ABRA") sent the Appellant a letter dated November 9, 2005,² stating that its records indicated that the Appellant's store was "not operating," but that his liquor license had not been placed in

²The ABRA letter was sent to an address at which the Appellant had not resided since 1996.

BZA APPEAL NO. 17902-A
PAGE NO. 3

“safekeeping.” Exhibit No. 23.³

13. Appellant took no action in response to this letter until March 24, 2008, when he paid \$2,600 to put his store’s liquor license in “safekeeping” with the ABRA.
14. Water service to the Appellant’s store had been disconnected in April, 2005 as a result of an arrearage of over \$3,000. Water service remained disconnected until it was restored in May, 2008.
15. A “Merchant Financial Activity Statement” from American Express for Appellant’s store during the period of December 12, 2007 to January 11, 2008, shows one transaction with a sales amount of \$5.95.
16. Through the year 2008, the Appellant filed with the D.C. government Unincorporated Business Franchise Tax Returns for his store.⁴ The returns do not show a profit, but a business can be operating and not making a profit. Nor do the returns indicate that the business had been terminated, although they provide a box to check if termination has occurred.
17. Through the year 2008, the exterior of the subject property was not particularly well maintained, with, for example, “signs falling off the side of the building.” Exhibit No. 15 (ANC Letter).
18. Beginning in approximately September, 2006, the Appellant received several offers from persons wishing to lease the business. *See*, Exhibit No. 20.
19. On April 30, 2008, the Appellant entered into a commercial lease with Mr. Mikyung Yoon. Exhibit No. 20.
20. Mikyung Yoon was to lease the Appellant’s business and continue the liquor store use for one year beginning on May 1, 2008, with an option to renew for five years, and an option to purchase the property within the five-year period. Exhibit No. 20.
21. DCRA issued C of O No. 167331 to Mikyung Yoon on May 30, 2008 for a “retail beverages store” on the subject property. The C of O erroneously noted the zone district of the subject property as C-M-1. It had no expiration date.
22. Around the time of entering the lease with Mikyung Yoon, the Appellant made renovations to the property, but DCRA issued a Stop Work Order (“SWO”) and Notice of Infraction (“NOI”) because no building permit authorizing such renovations had been obtained.

³There is no explanation in the record of how or why the ABRA came to the conclusion that the Appellant’s business was “not operating,” other than an allusion in the ANC’s letter to the effect that the ABRA had done a “spot check of the establishment.” Exhibit No. 15.

⁴Tax returns for 2002 and 2003 are not in the record and their absence was not explained.

BZA APPEAL NO. 17902-A
PAGE NO. 4

23. Thereafter, the Appellant paid the fine associated with the NOI and applied for a building permit.
24. DCRA issued the Appellant a building permit for the subject property on July 18, 2008 allowing him to “alter partition, repair walls 7 (sic) painting, repair ceiling, replace window glass, repair roof, fix drainage.” Exhibit No.2, Third Attachment.
25. Although there was some discrepancy as to the precise amount spent, the Appellant invested money in repairs and renovations of the subject property in preparation for the operation of the liquor store business by Mikyung Yoon. *See*, Hrg. Trans. at 133 and Exhibit No. 28 (2007 tax return).
26. After investigating the circumstances surrounding the operation of the Appellant’s business, DCRA concluded that it had been discontinued for more than three years, and, pursuant to 11 DCMR § 2005.1, on August 29, 2008, revoked C of O No. 167331 as erroneously issued.
27. The Appellant filed the instant appeal of revocation of C of O No. 167331 on October 24, 2008.

CONCLUSIONS OF LAW

This appeal centers on one Zoning Regulation, 11 DCMR § 2005.1, which states:

Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for a period of more than three (3) years, shall be construed as *prima facie* evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located.

The test in the District of Columbia continues to be (1) the intent to abandon, and (2) some overt act or failure to act which carries the implication of abandonment. *GW University v. DC BZA*, 429 A.2d 1342 (DC 1981). In sum, for discontinuance to be shown under § 2005.1, the law requires more than mere lapse of time or “discontinued use”. The law also requires this “intent to abandon” and some act/failure to act that implies abandonment.

This regulation sets up a rebuttable presumption: proven discontinuance of operation of a nonconforming use for more than three years results in an assumption that the owner of such use has no intention to resume such use. This assumption, or legal presumption, is, however, rebuttable, *i.e.*, can be contradicted, if the owner of the nonconforming use can make the appropriate showing that he did not intend not to resume the use. Therefore, the first thing that must be shown is that the nonconforming use has been discontinued for more than three years. If this is shown, the presumption arises. Notwithstanding the discontinuance for more than three

BZA APPEAL NO. 17902-A
PAGE NO. 5

years, however, the owner of the use next has the opportunity to demonstrate that they never intended not to resume the use. Such an intention must be proved to the Board by demonstrable, external facts. Such proof may involve actions or other evidence of intent taken at any time during or after the three year period identified by the ZA. It therefore behooves DCRA to take enforcement action sooner rather than later, since on any prior action evincing an intent to continue the business, no matter when taken, starts a new three year period.

As to whether the use had been discontinued for three years, the Board finds that the operation of the liquor store, although greatly reduced, did not ever cease for a period of more than three years. Although the Appellant concedes that he operated the liquor store only one or two days a week from approximately 2003 to September, 2006, this does not amount to “discontinuance,” which the Board interprets to mean a “cessation, shutdown, [or] closure.” *Webster’s Third New International Dictionary*, definition of “discontinuance.” See, 11 DCMR § 199.2(g). The Board concludes that Mr. Park did not intend to abandon the liquor store use, nor was there evidence of an overt act or failure to act that carried the implication of abandonment.

The Appellant also indicated that due to his ill health, he had failed to do what was necessary to keep all the aspects of his business viable. For example, he did not renew his Basic Business License, which expired on July 31, 2003, allowed the water service to be turned off for most of this time, and allowed the property to go into disrepair. However, none of these facts refute Appellant’s contention that he did operate the business, albeit sporadically. All that is indicated is that he did so without a license or water and in a deteriorating physical environment. While ABRA and the Zoning Administrator may have surmised from these factors that a discontinuance may have occurred, the Board has the advantage of having heard from Mr. Park and, having done so, concludes that no discontinuance of the business occurred.

In March of 2008, approximately a month before entering the lease with Mr. Yoon, Appellant made the payment to ABRA necessary to safeguard his liquor license. The April 30, 2008 lease permitted Mr. Yoon, to continue operating the business for one year with the option to renew the lease for five years, and the further option to purchase the property. Following the execution of the lease, Appellant took the actions necessary to resume water service, spent over \$30,000 to renovate and repair the subject property, and paid the necessary fines for beginning renovations without a permit.

Both separately and collectively, these actions rebut any presumption that Mr. Park had “no intention to resume active operation” of the nonconforming liquor store use, but instead manifest an intention to continue the business.

The Board therefore concludes that there was no three-year period of discontinuance of the nonconforming liquor store use at the subject property. The Board further concludes that even if there had been a discontinuance of this length, the actions of the Appellant to preserve and enhance the use rebutted the presumption of abandonment. Therefore, C of O No. 167331, issued to Mikyung Yoon for the same nonconforming use, and issued only because of a change in the operator of the use, was erroneously revoked.

BZA APPEAL NO. 17902-A
PAGE NO. 6

The Board is required to give “great weight” to issues and concerns raised by the affected ANC. D.C. Official Code § 1-309.10(d). Great weight means acknowledgement of the issues and concerns of the ANC and an explanation of why the Board did or did not find its views persuasive. ANC 6C recommended denial of the appeal, stating that “nothing in the application provides any evidence to rebut the presumption spelled out in 11 DCMR § 2005.1.” Exhibit No.15, at 2. As explained above, the Board disagrees with this conclusion. The Board acknowledges the ANC’s contention that the “property certainly appeared to be abandoned,” (*Id.*) and there was other testimony to this point, but, as noted, the property’s unkempt appearance is not enough to establish either a three-year period of discontinuance or an intention not to resume the use. The ANC also states that if the business were continuously operated, it was done illegally because of the lack of a Basic Business License and the cut-off of water service, but these are not issues within the jurisdiction of this Board.

For all the reasons stated above, the Board concludes that the Appellant met its burden of demonstrating that DCRA erred in revoking C of O No. 167331. Therefore, it is hereby **ORDERED** that this appeal be **GRANTED**.

VOTE TO GRANT APPEAL: **3-0-2** (Marc D. Loud, Shane L. Dettman and Anthony J. Hood to Grant. Two Mayoral appointees (vacant) not participating, not voting.)

VOTE TO ISSUE

CORRECTED ORDER: **3-0-2** (Marc D. Loud, Shane L. Dettman and Anthony J. Hood to Approve. Two Mayoral appointees (vacant) not participating, not voting.)

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

A majority of Board members has approved the issuance of this Order.

FINAL DATE OF ORDER: **JULY 10, 2009**

FINAL DATE OF CORRECTED ORDER: **MARCH 9, 2010**

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 17902-B of Joseph Park, pursuant to 11 DCMR §§ 3100 and 3101, from an August 29, 2008 decision of the Zoning Administrator to revoke the Certificate of Occupancy Permit No. 167331, for a liquor store (Oasis Liquors) in the R-4 District at premises 1179 3rd Street, N.E. (Square 773, Lot 277).

HEARING DATE: April 14, 2009

DECISION DATE: May 12, 2009

**DATE OF ISSUANCE
OF FINAL ORDER:** July 10, 2009

**DATE OF DECISION
ON RECONSIDERATION:** September 15, 2009, October 27, 2009

ORDER DENYING RECONSIDERATION¹

On July 23, 2009, ANC 6C, a party to this appeal, filed a motion for reconsideration (Exhibit No. 34) of the Board of Zoning Adjustment's ("BZA" or "Board") decision of May 12, 2009 granting the appeal. The decision established that Mr. Joseph Park ("Appellant"), had not intended to discontinue his nonconforming liquor store use at 1179 3rd Street, N.E. ("subject property"), and that the Zoning Administrator ("ZA") had erred in revoking the Certificate of Occupancy for the business. During the hearing on the appeal, ANC 6C appeared as a party in opposition.

The ANC's request/motion for reconsideration ("motion") was timely filed, per 11 DCMR §§ 3126.2 and 3110.3, and complains of procedural irregularities and several of the findings of fact in Board Order No. 17902. The motion states that Findings of Fact Nos. 10 and 25 were based on the Applicant's testimony with no "evidence," or no "supporting documentation," to back it up. The Appellant's testimony, however, *is* evidence and there is no requirement that it be illustrated in a documentary manner. The Appellant was under oath when he testified and the Board found him to be a credible witness. The Board was free to credit his testimony, with or without "supporting documentation," over that of other witnesses. *See, e.g., Dorchester Associates v. D.C. Bd. of Zoning Adjustment*, 976 A.2d 200, 215 (D.C. 2009). ("[A]n agency as

¹Although the Board denies the substance of ANC 6C's reconsideration request, it agrees with the ANC that Findings of Fact Nos. 16 and 25 need to be corrected and has issued a Corrected Order including revised versions of these Findings.

BZA APPEAL NO. 17902-B
PAGE NO. 2

a finder of fact, may credit the evidence upon which it relies to the detriment of conflicting evidence, and [generally] need not explain why it favored the evidence of one side or the other.”)

The ANC’s motion also claims that certain evidence relied on by the Board was not seen by the ANC. The motion cites Finding of Fact No. 15 and states that an American Express “Merchant Financial Activity Statement” was not made available to the ANC. This Financial Activity Statement was in the record, as an attachment to Exhibit No. 14, which was filed on April 3, 2009, 11 days prior to the hearing on the appeal. The Financial Activity Statement was therefore in the record and available for the ANC’s review.

The ANC further claims that the Appellant’s Unincorporated Business Franchise Tax Returns were “not provided to the ANC.” Because the Board had, at the close of the hearing, asked for these returns, they had been post-hearing filings. As such, the Board had no way of determining with certainty whether they had been properly served on the ANC. Therefore, the Board postponed action on the motion from September 15th to October 27th, 2009, in order to allow the ANC time to obtain and review the tax returns and discuss them at a regularly-scheduled public meeting.

The ANC received the tax returns and considered them. It then submitted to the Board a statement discussing the returns in further support of its motion for reconsideration. Exhibit No. 41. The ANC stated that the tax returns contradicted Findings of Fact Nos. 16 and 25 and that such contradictions call into question the veracity of the Appellant. The Board agrees that the tax returns are at odds with Findings of Fact Nos. 16 and 25, but finds this to be harmless error, particularly because the fact that the returns were filed at all belies an intent to discontinue the business. The Board disagrees with the ANC’s statement as to the veracity of the Appellant, and reiterates that, taken as a whole, the Appellant’s demeanor and testimony were credible.

The ANC finally claims that the Board relied too heavily on the tax returns to conclude that the Appellant did not intend to discontinue the liquor store business. But the Board relied on all the evidence, including the Appellant’s testimony, his payment to put his liquor license in safekeeping, and his efforts to sell or lease the business, culminating in the 2008 lease agreement with Mr. Mikyung Yoon. See, e.g., Transcript of May 12, 2009 Decision Meeting, pp. 15-18 and 21 & 22; Transcript of October 27, 2009 Decision Meeting on Reconsideration, p. 87, lines 10-22, and 88, lines 1-7, and p. 89, lines 15-16.

Looking at the evidence in its totality, as proffered by both the Appellant and the parties in opposition, the Board concluded that Mr. Park met his burden of proof to establish that the certificate of occupancy was revoked in error. The Board will not entertain any re-hashing of the evidence presented at the hearing in the guise of a motion on reconsideration.

For all the above reasons, it is hereby **ORDERED** that ANC 6C’s motion for reconsideration is

BZA APPEAL NO. 17902-B
PAGE NO. 3

DENIED.²

VOTE: **3-0-2** (Marc D. Loud, Shane L. Dettman, and
Anthony J. Hood, to deny reconsideration.
Two members not participating nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT.

A majority of the Board approved the issuance of this order.

FINAL DATE OF ORDER: March 9, 2010

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

LM

²The Department of Consumer and Regulatory Affairs (“DCRA”), the appellee herein, did not file a motion for reconsideration, but instead filed a “Response to the ANC’s Motion for Reconsideration,” which essentially agreed with the points raised by the ANC. DCRA appears to contend that it had not been properly notified that certain evidence had been submitted “prior to or after the hearing” and alleges that “no notice was provided to DCRA that [the tax returns] would be submitted to the Board.” Exhibit No. 35, at 3. Any evidence submitted “prior to” the hearing would be in the public record, available for DCRA’s review. Since DCRA attended the hearing, any evidence submitted during the hearing should have been known to it, and since the Board specifically requested the tax returns, DCRA was on notice that they would be submitted to the Board. In any event, DCRA acknowledges that it was provided a copy of the tax returns after the hearing (which is when the Board received them). Insofar as DCRA’s filing makes assertions different from those made in the ANC’s motion, DCRA’s filing is untimely as a request for reconsideration, as it was filed more than 13 days after the date of issuance of Order No. 17902. 11 DCMR §§ 3126.2 & 3110.3.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18034 of William Basiliko, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the lot occupancy requirements under section 403, a variance to enlarge a structure devoted to a nonconforming use under subsection 2003.5, and a special exception to change a nonconforming use (beauty salon) to another nonconforming use (art gallery and community center) under section 2003, in the R-4 District at premises 1916 9th Street, N.W. (Square 361, Lot 122).

HEARING DATE: February 23, 2010

DECISION DATE: March 2, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6).

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC filed a report, dated February 10, 2010, indicating that the ANC voted unanimously in support of the application on February 4, 2010, at a duly-noticed, regularly-scheduled meeting at which a quorum was present. (Exhibit 29). The Office of Planning (OP) submitted a timely report recommending approval of the application. (Exhibit 27).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for variances from lot occupancy requirements under section 403 and to allow enlargement of a structure devoted to a nonconforming use under subsection 2002.5. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 403, and 2002.5, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially

BZA APPLICATION NO. 18034

PAGE NO. 2

impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.¹

In addition, as directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception to change a nonconforming use (beauty salon) to another nonconforming use (art gallery) under section 2003. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2003, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** (pursuant to Exhibit 11 – Plans).

VOTE: **4-0-1** (Marc D. Loud, Nicole C. Sorg, Meridith H. Moldenhauer, and Michael G. Turnbull to APPROVE; Shane L. Dettman not participating nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

¹ In its deliberations the Board decided that each of the variances were most appropriately decided as area variances, while noting that, at least with respect to the variance under § 2002.5, a case could be made for a use variance as well. The Board differed with OP's recommendations insofar that OP recommended analyzing and approving the variance under subsection 2002.5 as a use variance. The Applicant presented both variance tests.

BZA APPLICATION NO. 18034

PAGE NO. 3

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18035 of George Chopivsky, as amended,* pursuant to 11 DCMR § 3104.1, for a special exception to allow for an addition to an existing nonconforming structure to enclose an existing deck at the third-story level under section 223, not meeting the provisions for lot width (§ 401.1), lot occupancy (§ 403), and nonconforming structures (§ 2001.3), in the R-3 District at premises 1919 23rd Street, N.W. (Square 2528, Lot 276).

**Note: At the hearing, the application was bifurcated at the applicant's request to seek special exception relief under § 223 for the addition, and variance relief for the accessory garage. The variance relief is addressed in BZA Order No. 18035-A.*

HEARING DATE: March 2, 2010
DECISION DATE: March 2, 2010

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on the proposed construction by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2D, which is automatically a party to this application. ANC 2D submitted a report in support of the construction project. While the written report of the Office of Planning (OP) did not specifically address the special exception relief, at the hearing, OP expressed the view that the application meets the test for special exception relief.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 18035
PAGE NO. 2

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 7 (plans) is hereby **GRANTED**.

VOTE: 3-0-2 (Marc D. Loud, Nicole C. Sorg and Meridith H. Moldenhauer to Approve; Shane L. Dettman and a Member of the Zoning Commission not participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED.

BZA APPLICATION NO. 18035**PAGE NO. 3**

VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

TWR

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18035-A of George Chopivsky, as amended,* pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, and the nonconforming structure provisions under subsection 2001.3, to allow a third story addition to an existing row dwelling and to construct a new accessory garage in the R-3 District at premises 1919 23rd Street, N.W. (Square 2528, lot 276).

**Note: At the hearing, the application was bifurcated at the applicant's request to seek special exception relief under § 223 for the addition and variance relief for the accessory garage. The special exception relief is addressed in BZA Order No. 18035.*

HEARING DATE: March 2, 2010

DECISION DATE: March 2, 2010

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2D, which is automatically a party to this application. ANC 2D submitted a report in support opposition or did not participate in this application of the application. The Office of Planning submitted a report in opposition to the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from §§ 403 and 2001.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 403 and 2001.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 18035-A
PAGE NO. 2

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 7 (Plans) is hereby **GRANTED**.

VOTE: **3-0-2** (Marc D. Loud, Meridith H. Moldenhauer and Nicole C. Sorg
to Approve; Shane L. Dettman and a Member of the Zoning
Commission not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A Majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: **March 12, 2010**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION,

**BZA APPLICATION NO. 18035-A
PAGE NO. 3**

FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

TWR

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18039 of Jason Lefebure, pursuant to 11 DCMR § 3104.1, for a special exception for a rear addition to an existing one-family detached dwelling under section 223, not meeting the side yard (section 405), requirements in the R-1-B District at premises 1510 Kearney Street, N.E. (Square 4010, Lot 44).

HEARING DATE: March 9, 2010

DECISION DATE: March 9, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5A, which is automatically a party to this application. ANC 5A did not participate in the application. The Office of Planning (OP) submitted a report and testified in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to section 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, and 223, as the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 10 (Plans) is hereby **GRANTED**.

BZA APPLICATION NO. 18039

PAGE NO. 2

VOTE: **4-0-1** (Nicole C. Sorg, Peter G. May, Marc D. Loud, and Meridith H. Moldenhauer to Approve. The National Capital Planning Commission member not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2010

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE

BZA APPLICATION NO. 18039

PAGE NO. 3

TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18043 of Mark Ewert and Steven Stichter, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow a rear first floor deck addition to an existing row dwelling in the R-4 District at premises 401 Rock Creek Church Road, N.W. (Square 3236, Lot 46).

HEARING DATE: March 9, 2010

DECISION DATE: March 9, 2010

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4C, the Office of Planning (OP) and to owners of property within 200 feet of the site. The OP submitted a report and testified at the public hearing in support to the application. The ANC submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 403, 404 and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates an

undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 18043

PAGE NO. 2

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application pursuant to Exhibit 22 (Deck Plans) be **GRANTED**.

VOTE: **4-0-1** (Marc D. Loud, Peter G. May, Nicole C. Sorg and Meridith H. Moldenhauer to Approve. The National Capital Planning Commission member not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member has approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2010

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING

BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT

BZA APPLICATION NO. 18043

PAGE NO. 3

OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**ZONING COMMISSION ORDER NO. 02-38B****Z.C. Case No. 02-38B****(Two-Year Time Extension for PUD at 401 M Street, S.W.)****Waterfront Associates LLC and the District of Columbia – Square 542, Lot 89****September 14, 2009**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on September 14, 2009. At the meeting, the Commission approved in part a request from Waterfront Associates and the District of Columbia (collectively, the "Applicant") for a time extension for an approved consolidated planned unit development ("PUD") and related map amendment for property consisting of Record Lot 89¹ in Square 542 (the "Property"), pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR").

FINDINGS OF FACT

1. By Zoning Commission Order No. 02-38A ("Order No. 02-38A"), the Commission approved a modification to a first-stage PUD ("First-Stage PUD"), a second-stage PUD ("Second-Stage PUD") and a related Zoning Map amendment for the Property. The First-Stage PUD provides for the development of eight buildings including residential, office and ground-floor retail uses and includes significant open spaces as well as the re-opening of the 4th Street right-of-way. The Second-Stage PUD includes the four buildings through the center of the Property and their adjacent open spaces. These four buildings include the East and West 4th Street Office Buildings with ground-floor retail space including a Safeway grocery store flanking the east and west side of 4th Street and the East and West Residential Towers which have a continuous open space connecting them to 4th Street. Order No. 02-38B became effective upon its publication in the *D.C. Register* ("DCR") on January 25, 2008.
2. Condition No. 28 of Order No. 02-38A approved the Second-Stage PUD for a period of two years from the effective date of the order, which was January 25, 2008. Within such time, the Applicant was required to file for a building permit as specified in 11 DCMR § 2409.1. Construction must begin within three years of the effective date of the Order.
3. Condition No. 29 of Order No. 02-38A provides that the approval for the First-Stage PUD is valid for a period of five years from the effective date of the order (i.e., January 25, 2008). Accordingly, by January 25, 2013, the second-stage PUD application(s) for the Northwest Building, the Northeast Building, and the West M Street Building must be filed. These second-stage applications may be submitted individually, at the same time, or in any combination thereof. The timeframe for filing the second-stage PUD application for the East M Street Building is separate and is based upon the date that Safeway vacates the premises.

¹ Record Lot 89 in Square 542 has been divided into Lots 822 through Lot 834 for assessment and taxation purposes.

Z.C. ORDER NO. 02-38B
Z.C. CASE NO. 02-38B
PAGE 2

4. The Applicant applied for building permits for the East and West 4th Street Office Buildings, and the building permits were both issued on July 17, 2008. Construction commenced in September 2008.
5. By letter dated and received by the Commission on August 4, 2009, the Applicant filed a request to extend the validity of the Second-Stage PUD approval for the East and West Residential Towers for a period of two years. The request, if approved, would require that an application for a building permit for the East and West Residential Towers must be filed no later than January 25, 2012, and construction must start no later than January 25, 2013. The Applicant's request was supported by exhibits showing the progress of the project thus far and an affidavit from the Applicant's project manager setting forth details of the Applicant's inability to obtain project financing at this time, as discussed in Finding Nos. 6 and 7.
6. The Applicant submitted evidence that the project has experienced delay beyond the Applicant's control. The Applicant moved forward with the office component of the project, including financing, leasing, and construction. Immediately thereafter, the real estate market suffered a major crisis. Banks froze lending for residential projects or ceased lending operations entirely due to the uncertainty in market conditions and the softening of the housing market.
7. Despite these events, as indicated by the evidence in the record, the Applicant made preparations to move forward with the residential component of the project. Specifically, the Applicant completed interior demolition and abatement. In December 2007, the Applicant signed a letter of intent to sell the residential buildings to a residential developer. The sale did not go forward because the potential purchaser could not secure financing or the required equity needed to close the transaction, despite additional efforts by the Applicant. Currently, the Applicant cannot move the residential portion of the project forward during the approval period due to the lack of financing available in the market for residential projects following its diligent, good faith efforts, because of changes in the economic and market conditions, which are beyond the Applicant's control.
8. In the same letter, the Applicant also requested a two-year extension of the overall timeframe for filing of the second-stage PUD applications for the Northwest Building, Northeast Building, and the West M Street Building due to the delay in construction of the East and West Residential Towers. The request, if approved, would require that the second-stage PUD applications for the Northwest Building, Northeast Building, and the West M Street Building must be filed no later than January 25, 2015. The Applicant cited evidence relating to the need to maintain the phasing of the project and the timeframes needed to bring the various aspects of the project to market.

Z.C. ORDER NO. 02-38B
Z.C. CASE NO. 02-38B
PAGE 3

9. The Applicant served a copy of the request on all parties (including Advisory Neighborhood Commission (“ANC”) 6D, Tiber Island Cooperative Homes, Inc., and Carrollsborg Square Condominium Association) on August 4, 2009. None of the parties responded to the application.
10. Because the Applicant demonstrated good cause with substantial evidence pursuant to Section 2408.11(a) of the Zoning Regulations, the Commission finds that the request for the two-year time extension of the Second-Stage PUD should be granted.
11. The Commission finds that the requested extension for the First-Stage PUD need not be granted at this time given the amount of time still to pass before the expiration date of that approval period. The Commission finds that the Applicant may file an application for an extension of time for the First-Stage PUD, in whole or in part, at such time in the future as the Applicant deems necessary.

CONCLUSIONS OF LAW

1. The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any material fact upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension as provided in § 2408.11. (11 DCMR § 2408.10.) Section 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the PUD order.
2. The Commission concludes that the application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.
3. The Commission concludes there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD.

Z.C. ORDER NO. 02-38B
Z.C. CASE NO. 02-38B
PAGE 4

4. The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to the affected ANC's recommendations. The ANC did not respond to the application.
5. The Commission finds that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DMCR § 2408.11(a). Specifically, the Applicant has been unable to obtain sufficient project financing for the East and West Residential Towers in the Second-Stage PUD, following the Applicant's diligent good faith efforts, because of changes in economic and market conditions beyond the Applicant's reasonable control.
6. Section 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11.
7. The Commission concludes a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.
8. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a two-year time extension of the Second-Stage PUD approved in Zoning Commission Case No. 02-38B. The Second-Stage PUD approved by the Commission shall be valid until January 25, 2012, within which time an application shall be filed for a building permit, as specified in § 2409.1 of the Zoning Regulations. Construction must commence no later than January 25, 2013.

The Commission does not approve the request for a two-year time extension of the First-Stage PUD approved in Zoning Commission No. 02-38A. The Applicant may file a request for an extension of time for the First-Stage PUD, in whole or in part, at such time in the future as the Applicant deems necessary.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic

Z.C. ORDER NO. 02-38B
Z.C. CASE NO. 02-38B
PAGE 5

information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicants to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On September 14, 2009, upon the motion made by Konrad W. Schlater, as seconded by Michael G. Turnbull, the Zoning Commission approved this application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve, William W. Keating, III to approve by absentee vote).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 19, 2010.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-30B**

Z.C. Case No. 03-30B

(Square 643 Associates LLC – Two-Year PUD Time Extension

@ 734 1st Street, S.W.)

December 14, 2009

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) was held on December 14, 2009. At the meeting, Commission approved a request from Square 643 Associates LLC (the “Applicant”) for a second extension of an approved planned unit development (“PUD”) for property located at 734 1st Street, S.W. (Square 643, Lot 830; the “Property”), pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations.

FINDINGS OF FACT

1. By Zoning Commission Order No. 03-30 dated September 15, 2005, the Commission approved a PUD for the Property. The approved PUD is to be a mixed-use project requiring the preservation and reuse for non-profit office use of the historic landmark Old Friendship Baptist Church, together with new construction of an L-shaped, mid-rise apartment building connecting to the church on the east and north sides. The apartment building is authorized to have between 18-27 dwelling units, including one affordable rental unit. The apartments are projected to be sold as condominiums. A PUD-related map amendment from the R-4 Zone District to the R-5-C Zone District was adopted as part of the PUD approval.
2. By Zoning Commission Order No. 03-30A, the Commission approved the first extension of the PUD for a two year period, so that an application for a building permit should have been filed no later than September 15, 2009
3. On July 1, 2009, the Applicant requested a second extension of the PUD, except that the Applicant now requested three years to apply for a building permit. According to the Applicant, current market conditions in the immediate Southwest neighborhood have made it impossible to attract a non-profit office tenant. The Applicant believes that the non-profit office component of the project must be leased prior to the development of the residential component. The Applicant further asserted that the uncertainty regarding the adjacent Randall School development has further complicated its ability to market the site and obtain financing. Development of the Randall School site, which is also subject to an approved PUD, has been stymied by the same adverse market conditions being experienced by the Applicant. This in turn has led to the Randall School developer abandoning the project. The Applicant anticipates that the current environment of uncertainty will diminish if and when the Randall project finds a new developer and moves forward. For all of these reasons, the Applicant requested a three-year time extension.
4. By memorandum dated September 23, 2009, the Office of Planning (“OP”) indicated that it had seen no details substantiating the Applicant’s assertions.

Z.C. ORDER NO. 03-30B
Z.C. CASE NO. 03-30B
PAGE 2

5. At its regular monthly meeting on October 1, 2009, the Commission agreed with OP that further details were needed to justify a second extension. In supplemental submissions dated October 9, 2009 and December 11, 2009, the Applicant submitted additional details regarding its efforts to lease the non-profit office component of the project.
6. The Applicant's submission was served on Advisory Neighborhood Commission ("ANC") 6D, the only party in the case other than the Applicant, on July 2, 2009. On November 12, 2009, ANC 6D submitted a letter to the Commission stating that ANC 6D unanimously voted to support the Applicant's extension request. There was no opposition to the requested time extension.
7. On December 14, 2009, at its regular monthly meeting, the Commission again considered the proposed time extension and granted approval of a two-year time extension, instead of the three-year extension sought.

CONCLUSIONS OF LAW

The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties and all parties are allowed 30 days to respond; (b) there is no substantial change in any material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) substantial evidence demonstrates that there is good cause for the extension based on the criteria established in § 2408.11. (11 DCMR § 2408.10.) The three criteria for good cause are: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the Applicant's reasonable control; or (c) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order. (11 DCMR § 2408.11.)

The Commission concludes that the Applicant complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the Application on July 2, 2009. The only party to the Application, ANC 6D, provided a letter in support of the extension to the Commission on November 12, 2009. Further, based upon the OP report, the Commission concludes there has been no substantial change in any material facts that would undermine the Commission's justification for approving the original PUD.

The Commission further concludes that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by DCMR § 2408.11, specifically that despite the Applicant's diligent good faith efforts, the Applicant has been unable to lease the

Z.C. ORDER NO. 03-30B
Z.C. CASE NO. 03-30B
PAGE 3

non-profit office component of the project and, as a result, the Applicant has been unable to secure financing for the project. Adverse market conditions which have severely limited available financing for real estate development projects have also contributed to Applicant's inability to secure financing and proceed with development.

Nevertheless, the Commission believes that the extension should be for a two-year period rather than the three years requested. There is a certain time after which a PUD becomes stale and this project is coming close to that point. The Commission sees no reason to depart from its customary practice of extending the time for applying for a building permit by two years, just as it did for the Applicant's prior request.

The Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a time extension of the approved PUD in Zoning Commission Case No. 03-30, Order No. 03-30, except that the time for filing an application for a building permit shall be extended for two years, rather than the three years requested.

The final PUD approved by the Commission shall be valid until September 14, 2011, within which time an application shall be filed for a building permit, as specified in § 2409.1. Construction shall start no later than September 14, 2012.

On December 14, 2009, upon the motion of Commissioner Schlater, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, William W. Keating, III, Michael G. Turnbull, Konrad W. Schlater, and Peter G. May to approve).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 19, 2010.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-01A/06-01B
Z.C. Case Nos. 06-01A and 06-01B
(Steuart-H Street, LLC – Time Extension and Modification
to the Approved Planned Unit Development at Square 776)
January 11, 2010

This Order concerns two requests. The first is a request to extend the deadline for filing an application for a building permit and for starting construction of a planned unit development (“PUD”) at Square 776. The request was filed on July 7, 2009, prior to the expiration of the PUD on approval, and was assigned Zoning Commission Case No. 06-01A.

The second request was filed on August 31, 2009, and sought to modify the PUD and its approved plans to reduce the height, bulk, and number of parking spaces for the project. As proposed, the modified PUD would have a maximum height of 75 feet, a maximum gross floor area of 250,160, a maximum density of 4.11 floor area ratio (“FAR”), and parking reduced to 270 spaces. This matter was assigned Case No. 06-01B.

Pursuant to 11 DCMR § 2408.10, Steuart-H Street, LLC (the “Applicant”) served a copy of the time extension request on Advisory Neighborhood Commission (“ANC”) 6C, the only party to the original application. The ANC did not respond to the extension application during the 30-day review period provided for in that rule.

The time extension request came before the Zoning Commission for the District of Columbia (the “Commission”) at its public meeting on September 14, 2009. A hearing on a time extension request is required, “only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD proceedings concerning any of the criteria” for approval. (11 DCMR § 2408.12.) Since no conflict was raised, no hearing was scheduled. Instead, the Commission voted to defer acting on the request until after it took proposed action on the modification, which it also set down for a hearing at that same meeting.

The hearing on the proposed modification was held on November 30, 2009. The parties were the Applicant and ANC 6C, the ANC within which the property is located. At the conclusion of the public hearing, the Commission took proposed action to approve the modification application and plans that were submitted to the record.

The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated December 30, 2009, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capitol nor would it adversely affect any other identified federal interests.

In response to the Commission vote on proposed action, the Applicant, by letter dated January 6, 2010, withdrew the time extension request. The Applicant advised the Commission that the filing of the time extension request was only, “intended to preserve the rights under the approved PUD in the event the Commission did not approve the modification.” The Commission’s vote

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 2

on proposed action now made “further consideration of [the time extension request] unnecessary”.

Had the Commission honored the Applicant’s request, it would have been required to deny the modification. The Applicant apparently believes that the Commission’s grant of a PUD modification automatically restarts the time by which a building permit must be requested. Thus, any vote by the Commission to change or delete a condition or to modify a PUD’s design in any respect would automatically restart the two-year period to obtain a building permit; even if none of the criteria for granting a time extension were met.

The Commission disagrees. This is not an instance where the Applicant has submitted an application that so changed the PUD that it could not properly be considered a modification. If such a replacement PUD had been sought and granted, the time for obtaining a building permit would indeed have been automatically reset. In this instance, the Applicant characterized these revisions as a modification to, rather than a replacement of, an existing PUD.

As such, the time periods for obtaining a building permit and commencing construction under the modified plans are unaffected, unless the Commission votes “to extend the time periods ... upon the filing of a written request by the applicant before the expiration of the approval”. (11 DCMR § 2408.10.) A withdrawal of a time extension request has the same effect as its denial. The PUD will expire, leaving nothing to modify.

At its regularly scheduled public meeting held January 11, 2010, the Commission chose not to give effect to the withdrawal requested, but instead, for the reasons explained below, granted the time extension and took final action to approve the modification application.

FINDINGS OF FACT

The Approved PUD

1. By Order No. 06-01, dated December 11, 2006, effective October 12, 2007, the Commission approved the consolidated PUD and related map amendment from C-2-A to C-2-B for Square 776, Lots 9, 25-31, 51-53, 800, and 821 and the closed portions of the public alley in the square. The property has since been subdivided into a new single record lot and is now known as Lot 54 in Square 776 (the "Property").
2. The Property consists of approximately 60,870 square feet of land area and is located in the block bounded by 3rd, 4th, H, and I Streets, N.E. The Property fronts on 3rd, 4th, and H Streets.
3. The approved development contained 210 to 250 apartment units and approximately 46,579 square feet of gross floor area devoted to retail and service uses, including a grocery store of approximately 43,972 square feet plus additional loading and support space. The building was approved with a maximum height of 90 feet. The total gross

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 3

floor area of the project was approved at approximately 287,930 square feet and the overall density of the project was 4.8 FAR. The project was approved with approximately 400 parking spaces.

Extension Request

4. The District of Columbia and the United States are in the most significant economic downturn in decades. Despite the Applicant's diligent good faith efforts, there is simply no financing for the original or modified proposed project ("Project") at this time.
5. The Applicant has, over the past two years, sought financing from a number of different sources and has been unable to obtain the necessary commitments to allow the project to proceed. Thus, there is not sufficient project financing for the project to move forward at this time, despite the Applicant's diligent, good faith efforts, because of changes in the economic and market conditions beyond the Applicant's control.
6. The Applicant has also encountered particular difficulties in securing a tenant for the required grocery store space. The Applicant intends to move forward with the approved project as soon as sufficient financing is obtained and no later than two years after the effective date of this Order.
7. There have been no substantial changes in the material facts upon which the Commission relied in approving the original application. The Future Land Use Map of the 2006 Comprehensive Plan designates the subject property for mixed-use development including medium-density residential uses and moderate-density commercial uses, which is fully consistent with the approved PUD and C-2-B zoning.

Modified PUD Project

8. The PUD project, as modified, will continue to be a mixed-use development. The building will consist of a ground-floor grocery store and other retail with residential use on the floors above. Underground parking will provide 270 parking spaces, sufficient to supply the commercial tenants, customers, and residents without creating overflow parking in the nearby residential neighborhoods.
9. The main entrance to the residential building will continue to be located at the center of the block on H Street. The main entrance to the grocery store, consistent with the approved plan, will be at the corner of 3rd and H Streets. There will continue to be a separate entrance to the other retail use on the east end of the block on H Street. The entrance to the parking garage and loading facilities for the grocery store in the modified design will be located off 3rd Street in the same location as originally approved. Loading for the other retail use and residential use will be located off of 4th Street in the same location as originally approved.

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 4

10. The design of the proposed alternative scheme reflects the same architectural vocabulary and massing of the approved PUD. The façade details have been adjusted to reflect the removal of two residential floors and the reduction in the maximum building height from 90 feet to 75 feet. The mezzanine level in the grocery store has been eliminated. Additionally, minor adjustments have been made to the interior courtyard configuration, with two skylights removed. A pergola has been added to the courtyard, and the size of the roof terrace has been reduced from approximately 10,000 square feet to approximately 7,500 square feet. Finally, the façade treatment above the parking entrance on H Street has been refined to be consistent with the architectural vocabulary of the recently restored Landmark Lofts condominium project located directly across 3rd Street.

Development Flexibility and Incentives

11. The Applicant requested flexibility from the following requirements:
 - a. *Roof Structures.* The Applicant requested flexibility from the provisions of §§ 411 and 770.6 that require the roof structures to be in a single enclosure and set back from all exterior walls at a 1:1 ratio and that the enclosure be of uniform height. Separate mechanical penthouses were proposed to provide more efficient distribution of mechanical systems and to reduce the mass of the structures on the roof. Due to the narrowness of the building wings and the requirements of the mechanical systems, some of the penthouses will not meet the required setback and will be located in multiple structures. Also, to reduce their visibility, some of the roof structures will not have walls of equal heights. As indicated in Z.C. Order No. 06-01, the Commission granted the same flexibility for the approved project.
 - b. *H Street Overlay.* The Applicant requests flexibility from certain provisions of the H Street NE Neighborhood Commercial Overlay. First, § 1324.2 of the Zoning Regulations provides that buildings must be designed and built such that not less than 75% of the streetwall(s) to a height of not less than 25 feet must be constructed to the property line abutting the street right-of way, and that buildings on corner lots must be constructed to both property lines abutting public streets. However, in order to provide a four-foot setback from the H Street right-of-way, the Applicant seeks relief from the provisions of § 1325.1. Second, the Applicant requests flexibility from § 1324.11, which requires commercial entrances every 40 feet. However, instead of providing the eight entrances required, the Applicant proposes to provide four entrances due to the size and location of the proposed grocery store's footprint. As indicated in Z.C. Order No. 06-01, the Commission granted the same flexibility for the approved project.

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 5

- c. *Additional Areas of Flexibility.* The Applicant also requests flexibility in the following areas:
- i. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
 - ii. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;
 - iii. To make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
 - iv. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below the minimum number specified;
 - v. To be able to provide a range in the number and mix of residential units between 192 and 232 residential units; and
 - vi. To vary the distribution and amount of the retail square footage of the project, provided the total retail square footage does not exceed 46,455 square feet and the grocery store has a minimum square footage of 40,000 square feet.

Public Benefits and Amenities

12. The Commission finds that the following benefits and amenities will be created as a result of the modified PUD Project:
- a. *Urban Design, Architecture, Landscaping, and Open Space.* The Applicant has presented an appropriate architectural design for the project that includes a number of features that will benefit both the H Street corridor and the surrounding residential neighborhoods. These benefits include an architectural design that is fresh, while seeking to complement the existing contextual setting in both form and materials. Particular attention has been paid to creating an active, urban retail streetscape, celebratory architectural forms for the corner at 3rd and H Streets and the residential entrance on H Street, and an overall sculpting of the building's massing in accordance with the surrounding neighborhood. For the entire length

Z.C. ORDER NO. 06-01A/06-01B

Z.C. CASE NOS. 06-01A AND 06-01B

PAGE 6

of H Street frontage, the building will be set back from the property a distance of approximately four feet in order to increase the width of the sidewalk. This additional width will enhance the pedestrian experience by allowing more sidewalk space.

The building façades were designed in a style that complements and respects the adjacent buildings, particularly those with a distinct historic character. The façades on the principal street fronts of 3rd and H Streets will employ a framing armature of brick complemented with substantial glazed openings. The style of the fenestration will differentiate between the retail and residential floors, allowing for a unique expression of those two uses. The design includes an architectural embellishment at the corner of 3rd and H Streets to accentuate that location as a gateway to the commercial opportunities along H Street and beyond. The design proposal also includes improvements to the streetscape and adjacent alleys. These improvements will include paving for the sidewalks, street lighting fixtures, tree boxes, bike racks, and trash receptacles.

- b. *Site Planning and Efficient and Economical Land Utilization.* The Project was designed such that its primary bulk will be on H Street, away from the nearby residential community. The building design will provide relief to the adjacent neighborhood by having the building transition down from the maximum height of 75 feet to lower levels as it approaches neighboring properties at different locations, as shown on the approved plans. The Applicant also proposes improvements to the remaining alley system in Square 776. In particular, the PUD building will be set back from the property line along the alley, so that the alley effectively will be widened and, in most areas, the available passageway will be more than doubled. The Applicant will pave this additional area in the alley to allow more efficient ingress and egress. In addition, the building will be set back four feet from H Street to allow for a wider sidewalk and easier pedestrian passage. The Applicant will also provide significant open space for residents at the second story terrace and a roof deck.
- c. *Transportation Features.* The project offers several transportation management measures and provides increased density at a site well-served by bus routes and a future streetcar line. First, 3rd and H Street is located along three bus routes and is approximately one-third of a mile from the Union Station Metrorail Station. 3rd and H Street's location next to Union Station provides significant opportunities for public transportation use with Metrorail, Metrobus, and local and regional trains, all serving Union Station. This proximity will result in a significant proportion of site trips being made by mass transit or other non-passenger car modes. Moreover, as a part of the Great Streets Initiative, streetcar tracks are currently being constructed on H Street, and the proposed development will help to increase residential density and shopping opportunities along the streetcar lines.

Z.C. ORDER NO. 06-01A/06-01B

Z.C. CASE NOS. 06-01A AND 06-01B

PAGE 7

Second, the project will include a parking garage that will accommodate approximately 270 cars. Third, the eastern branch of the Metropolitan Branch Trail, which connects Union Station and Takoma Park and provides access to Capitol Hill, is only two blocks to the west. Fourth, as discussed in more detail below, the Applicant has agreed to implement a number of transportation demand management measures. Thus, as the Commission previously found, the project will not adversely impact the traffic situation for the area.

- d. *Employment and Training Opportunities.* The 3rd and H Street revised project will promote residential, retail, and commercial development at an appropriate location that will add to the economy of the District as well as provide expanded employment opportunities for District residents. The Applicant has committed to work with the Department of Employment Services ("DOES") to execute a First Source Employment Agreement and with the D.C. Department of Small and Local Business Development ("DSLBD") to execute an agreement.
- e. *Housing.* The project will create additional housing stock as encouraged by the City. Approximately seventy percent of the units will be one bedroom units, approximately six percent of the units will be one bedroom and den units, approximately 18% of the units will be two bedroom units and approximately six percent of the units will be studio units. The project will include approximately eight percent of the gross floor area devoted to residential use as affordable units to households making no more than 80% of the area median income. The Commission notes that although the gross floor area of the project is decreasing from that approved pursuant to Z.C. Case No. 06-01, the amount of gross floor area dedicated to affordable units is increasing under the revised design.
- f. *Special Value to the Neighborhood.* The revised project will add special value to the surrounding neighborhood by bringing a grocery store and new retail development that will serve the community. Moreover, the H Street Overlay specifically encourages a grocery store in Square 776.
- g. *Environmental Benefits.* The proposed development will help to ensure the environmental, economic, and social sustainability of the residents and building users through the implementation of sustainable design features. The Applicant's goal is to provide a high-quality development that will promote a healthy living environment, reduce life cycle costs for long term property management, promote efficient utility costs for residents, and create a synergy that will enhance interest in practical green building in the community. Thus, the Applicant has committed to provide sustainable building design features such that the building meets the standards for certification as a LEED-Certified building.

Office of Planning Report and Testimony

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 8

13. By report dated September 4, 2009, the Office of Planning ("OP") recommended that the Commission schedule a public hearing on the modification application. (Exhibit 12.)
14. By report dated November 20, 2009, OP recommended final approval of the modification application. (Exhibit 22.) OP indicated that the proposal would further a number of the guiding principles of the Comprehensive Plan, and that the application is consistent with major policies from various elements of the Comprehensive Plan, including the Land Use Element, the Transportation Element, and the Capitol Hill Area Element. OP also indicated that the proposed development as modified is not inconsistent with the Comprehensive Plan's land use designations for the Property. OP also found that the proposed modification is not inconsistent with the H Street, NE Strategic Development Plan, particularly since redevelopment of the 3rd and H Street intersection is listed as a key issue in the H Street Plan, and infill development on the 300 block is vital to the success of the overall plan. The Commission concurs with the findings and recommendations of OP.
15. OP testified in support of the modification application at the public hearing.

DDOT Report and Testimony

16. By report dated November 20, 2009, the District Department of Transportation ("DDOT") indicated that it conditionally supports the modification application. DDOT requested that the Commission require the Applicant to: further reduce the amount of proposed parking; follow DDOT's policy for a transportation demand management program; prohibit queuing into the site; require the Applicant to conduct an evaluation of the surrounding sidewalks within a two-block radius to determine their adequacy; provide more bicycle parking spaces; and provide 30-foot loading berths instead of 55-foot loading berths. (Exhibit 24.)
17. Consistent with this report, DDOT also testified in conditional support of the modification application at the public hearing.
18. The Commission notes that by report dated June 28, 2006, and marked as Exhibit 37 of the record in Case No. 06-01, DDOT stated it had no objections to the original project, which was much larger and included 130 more parking spaces than proposed in the revised design.
19. Based upon the testimony of the Applicant's expert in transportation analysis and planning, DDOT's June 28, 2006 report, DDOT's responses to questions from the Commission at the public hearing, and the materials and information presented by the Applicant at the hearing, the Commission finds that the Applicant has already reduced the amount of parking for the project from 400 to 270 spaces. The Commission further finds that the amount of proposed parking, which amounts to a ratio of 0.69 spaces per

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 9

dwelling unit and 3.00 spaces per 1,000 square feet of retail, is consistent with both the amount of parking approved by this Commission in recent cases, and is less than the parking ratios currently recommended as part of the Zoning Regulations revision process. The Commission also finds that due to the location of the garage ramp and access point, the majority of any queuing will occur within the building.

20. The Applicant has agreed to provide a number of transportation demand management measures, including an on-site transportation coordinator; an on-site freight manager; SmarTrip cards for the initial residential tenants for the initial lease; bicycle parking; telecommuting incentives; and the dissemination of information regarding public transportation options. The Applicant has also agreed to provide between 80-90 bicycle spaces within the building, and exterior bike racks adjacent to the site on 4th Street. The Applicant has also agreed to reduce the size of the loading berth to 30 feet for the residential portion of the building. However, based upon the testimony presented at the hearing, the Commission finds that commercial 55-foot loading berths are necessary to accommodate the proposed grocery store use. Finally, the Commission concludes that the Applicant is not required to conduct an evaluation of the surrounding sidewalks to determine their adequacy since DDOT is responsible for the paving and maintenance of public sidewalks.

ANC REPORT

21. ANC 6C submitted a letter dated October 19, 2009, indicating that at the duly noticed and regularly scheduled public meeting on October 14, 2009, at which a quorum was present, ANC 6C voted unanimously 9-0-0 to support the application and the requested modifications. (Exhibit 25.)

CONCLUSIONS OF LAW

Time Extension

1. The Applicant is requesting that its time for filing for a building permit pursuant to plans approved by the Commission be extended by two years, with construction under the approved plans to begin a year thereafter.

Procedural rulings.

2. As a preliminary matter, the Commission concludes that the application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving ANC 6C, the only party in the original PUD proceeding, with a copy of the request.
3. The Commission did not take action on the request until after the party had the requisite 30 days to respond. As noted, no response was received.

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 10

4. In addition, § 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11.
5. The Commission concludes that a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.

The merits of the request.

6. Pursuant to § 2408.8 of the Zoning Regulation, the final PUD approved by the Commission is valid for a period of two (2) years, within which time an application shall be filed for a building permit.
7. Construction shall start within three (3) years of the date of final approval. 11 DCMR § 2408.9.
8. Failure of an applicant to complete a proposed development within the time limits set by the Zoning Regulations results in the termination of the benefits granted under the application, and reversion of the zoning controls to the pre-existing regulations and map. (11 DCMR § 2400.7.)
9. The Commission may extend these time periods for good cause shown upon the filing of a written request by the applicant before the expiration of the approval. (11 DCMR § 2408.10.)
10. There must, however, be no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original. (*Id*).
11. Of the three criteria that can be used to show good cause is, the Applicant is relying upon its, "inability to obtain sufficient project financing for the PUD, following ... diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control." (11 DCMR § 2408.11.)
12. The Commission finds there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD.
13. As to good cause, the Applicant met its burden of proof by presenting substantial evidence of its inability to obtain sufficient project financing for the PUD, following

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 11

the Applicant's diligent good faith efforts, because of changes in economic and market conditions beyond the Applicant's reasonable control.

14. The Commission therefore grants the time extension request, with the two-year period to file an application for a building permit under approved plans beginning upon the effective date of this Order.

PUD Modification

15. Having determined that the Applicant's request for a time extension may be granted, the Commission can now consider whether the PUD should be modified in the manner requested.
16. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project, "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
17. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a modification to a previously-approved consolidated PUD and related Zoning Map Amendment. Any modifications proposed to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission. The proposed modification shall meet the requirements for and be processed as a second-stage application, except for minor modifications and technical corrections as provided for in § 3030. (11 DCMR § 2409.9.) The Commission treated this modification request as a second-stage PUD application.
18. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
19. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
20. The modified PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations. The modified PUD, as approved by the Commission, complies with the

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 12

applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the Property. The impact of the project on the surrounding area and the operation of city services is acceptable given the quality of the public benefits in the project.

21. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable tradeoffs for the requested development flexibility.
22. Approval of this modified PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
23. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 6C voted unanimously to support the modification application and recommended that the Commission approve the application. (Exhibit 25.) The Commission has given ANC 6C's recommendation great weight in approving the modification application. ANC 6C did not respond to the extension application.
24. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
25. The application for the modified PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of (1) the application for an extension of the time to file for a building permit and begin construction of this PUD pursuant to plans approved by the Commission; and (2) the application for modifications to the approved planned unit development located at Lot 54 in Square 776, and the continuation of the PUD-related map amendment from the C-2-A to C-2-B approved in Zoning Commission Order

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 13

06-01. The approval of the modified PUD and the continuation of the related map amendment is subject to the following conditions, which supersede the conditions stated in Order No. 06-01:

1. The project shall be developed in accordance with the plans prepared by Torti Gallas and Partners, Inc. last dated August 31, 2009, marked as Exhibit No 5 of the record (the "Plans"), as modified by the guidelines, conditions, and standards herein.
2. The project shall contain approximately 250,160 square feet of gross floor area, including approximately 203,705 square feet devoted to residential use and approximately 46,455 square feet devoted to retail use, including a grocery store. The total project shall have a maximum overall density of 4.11 FAR.
3. The maximum height of the building shall be 75 feet, as shown on the Plans. The building may include roof structures in excess of that height, with a height not to exceed 18.5 feet above the roof upon which they are located, as shown on the Plans.
4. The project shall include approximately 270 parking spaces, with 146 spaces allocated for the residential use and 124 spaces allocated for the retail uses.
5. The project shall include two 55-foot loading berths for the grocery store, one 30-foot loading berth for the residential use, and two 20-foot service/delivery/loading spaces, as shown on the Plans. Trucks using the residential loading berth shall not exceed 30 feet in length. Residential loading shall not occur before 9:00 a.m.
6. The Applicant shall implement the Transportation Management Plan outlined on pages 12-13 of the Transportation Impact Analysis included as Exhibit H of the Applicant's Prehearing Statement, marked as Exhibit 14 of the record in Case No. 06-01B.
7. The Applicant shall include landscaping for the project as shown on the Plans. The Applicant or its successors shall maintain all landscaping for the duration of the Project. Any landscaping installed by the Applicant in the public space adjacent to the Property shall be in accordance with the Plans, as approved by the Public Space Division of DDOT. The Applicant or its successors shall maintain all landscaping in the public space for the duration of the project.
8. The Applicant shall provide sustainable building design features such that the building meets the standards for certification as a LEED-Certified building.
9. The project shall include 16,296 square feet of residential gross floor area devoted to affordable housing. The affordable units shall be affordable to households earning no more than 80% of the area median income. The affordable units shall be distributed vertically and horizontally throughout the residential portion of the building and shall not

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 14

- be overly concentrated on any floor of a project. However, the Applicant shall have the right to reserve the top two floors of the building exclusively for market-rate units.
10. The Applicant is granted flexibility from the roof structure (§§ 411 and 770.6) and H Street Overlay provisions regarding streetwalls (§1324.2) and the location of building entrances (§1324.11), consistent with the PUD Tabulations of the Plans.
 11. A minimum of 40,000 square feet of gross floor area shall be devoted to a grocery store.
 12. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - i. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
 - ii. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;
 - iii. To make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District of Columbia building code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
 - iv. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below the minimum number specified;
 - v. To be able to provide a range in the number and mix of residential units between 192 and 232 residential units; and
 - vi. To vary the distribution and amount of the retail square footage of the project, provided the total retail square footage does not exceed 46,455 square feet and the grocery store has a minimum square footage of 40,000 square feet.
 13. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Commission.

Z.C. ORDER NO. 06-01A/06-01B

Z.C. CASE NOS. 06-01A AND 06-01B

PAGE 15

14. No building permit shall be issued for this PUD until the Applicant has submitted to the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA") evidence that the Applicant submitted a signed agreement to the D.C. Department of Small and Local Business Development ("DSLBD") and a signed agreement to the Department of Employment Services ("DOES") both in the form submitted in Case No. 06-01 and also included as Exhibit A of the Applicant's Prehearing Statement, marked as Exhibit 14 of the record in Case No. 06-01B.
15. The extension of the approved PUD shall be for a period of two years from the effective date of this Order. The PUD approved by the Commission, as modified pursuant to this Order, shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order.
16. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq.* ("Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On November 30, 2009, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the Application at the conclusion of its public hearing by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; William W. Keating, III, not present, not voting).

On January 11, 2010, upon the motion of Chairman Hood, as seconded by Commissioner Schlater, the Zoning Commission **APPROVED** the time extension of Z.C. Order No. 06-01 at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; William W. Keating, III, not present, not voting).

On January 11, 2010, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 4-0-1 (Anthony

Z.C. ORDER NO. 06-01A/06-01B
Z.C. CASE NOS. 06-01A AND 06-01B
PAGE 16

J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; William, W. Keating, III, not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on March 19, 2010.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-02A

Z.C Case No. 06-02A

(Petworth Holdings, L.L.C. – Two-Year PUD Time Extension @

Lots 40 and 809, Square 2910)

July 13, 2009

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) was held on July 13, 2009. At the meeting, the Commission approved the request of Petworth Holdings, L.L.C. (“Applicant”) for a time extension of the Consolidated Review and Approval of a Planned Unit Development (“PUD”) for Lots 40 and 809, Square 2910, located at 4136 Georgia Avenue, N.W. (“Property”). The request was made pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. The Commission determined that this request was properly before it under the provisions of § 2408.10 of the Zoning Regulations.

FINDINGS OF FACT

1. By Zoning Commission Order No. 06-02, effective September 14, 2007, the Commission approved the proposed PUD and a related Zoning Map Amendment from the C-2-A Zone District to the C-2-B Zone District for the Property. The approved PUD is for a residential and retail building comprised of approximately 57,995 square feet, approximately 57 residential condominium units, and a floor area ratio of 4.25. The Commission approved a maximum building height of 75 feet, a lot occupancy of 63%, and approximately 37 parking spaces (two above-grade and 35 below grade).
2. On June 9, 2009, prior to the expiration of the PUD, the Applicant filed a request to extend the validity of the PUD approval for a period of two years. The request stated, in relevant part, that the extension was necessary because of the dire economic conditions in the real estate market, particularly in the Petworth neighborhood surrounding the Property. Due to such widespread economic hardships, the Applicant experienced difficulty obtaining financing for the project despite the Applicant’s good faith attempts to do so. The extension request noted that such economic situation is outside of the Applicant’s control.
3. Advisory Neighborhood Commission (“ANC”) 4C, the ANC within which the Property is located, was automatically a party in the instant case, as well as the original PUD case, Case No. 06-02. Accordingly, the Applicant served the ANC a copy of the extension request and provided at least 30 days for them to respond. No responses were received.
4. At its regularly scheduled public meeting on July 13, 2009, the Commission reviewed and approved the two-year time extension. The Commission found that there was good cause for the extension and that all parties to the PUD case had been served.

Z.C. ORDER NO. 06-02A
Z.C. CASE NO. 06-02A
PAGE 2

CONCLUSIONS OF LAW

The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties and all parties are allowed 30 days to respond; (b) there is no substantial change in any material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) substantial evidence that there is good cause for the extension based on the criteria established in § 2408.11. (11 DCMR § 2408.10.) The three criteria under § 2408.11 are: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant's control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD Order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order. (11 DCMR § 2408.11.)

The Commission concludes the Applicant complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the Application and allowing them 30 days to respond.

The Commission concludes there has been no substantial change in any material facts that would undermine the Commission's justification for approving the original PUD.

The Commission concludes that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(a).

The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The approval of the time extension is not inconsistent with the Comprehensive Plan.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the Application for a two-year time extension of the PUD approval in Z.C. Case No. 06-02, Z.C. Order No. 06-02A.

The final PUD approved by the Commission shall be valid until September 14, 2011, within which time an application shall be filed with the District for a building permit unless this Order is further extended by the Commission.

Z.C. ORDER NO. 06-02A

Z.C. CASE NO. 06-02A

PAGE 3

The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

For the reasons stated above, the Commission concludes that the Applicant has met its burden; it is hereby **ORDERED** that the Application be **GRANTED**.

On July 13, 2009, upon the motion of Chairman Hood, as seconded by Commissioner Schlater, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, William W. Keating, III, and Konrad W. Schlater to approve; Michael G. Turnbull to approve by absentee ballot; Peter G. May, not present, not voting).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *DC Register* on March 19, 2010.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-13B**

Z.C. Case No. 07-13B

**(Trustees of the Corcoran Gallery of Art – Two-Year PUD Time Extension
@ Square 72, Lot 74)
February 22, 2010**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on February 22, 2010. At the meeting, the Commission approved a request from Trustees of the Corcoran Gallery of Art (the "Applicant") for a time extension for an approved planned unit development ("PUD") for property consisting of Lot 801 in Square 643-S (the "Subject Property") pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. The Commission determines that an extension of time of the validity of the PUD is in the best interests of the District of Columbia and is consistent with the intent and purposes of the Zone Plan.

FINDINGS OF FACT

1. By Order No. 07-13, the Commission approved a PUD for the property located on the Subject Property and an application to amend the Zoning Map from the R-4 Zone District to the C-3-C Zone District for the Subject Property. The Subject Property consists of approximately 115,724 square feet of land and is presently improved with the former Randall Junior High School, an historic landmark listed in the D.C. Inventory of Historic Places. The approved PUD includes plans to redevelop the site to establish a new campus for the Corcoran College of Art and Design ("Corcoran") and construct a new multi-family residential building consisting of approximately 440-490 units. The PUD would have an overall density of 4.32 floor area ratio ("FAR"), with approximately 100,000¹ square feet of building space (76,043 square feet of gross floor area) devoted to the Corcoran College of Art and Design. The order became effective on March 21, 2008, and pursuant to 11 DCMR § 2408.8, will expire on March 21, 2010, unless an application is filed for a building permit.
2. By Order No. 07-13A and effective September 26, 2008, the Commission approved a modification to the PUD to allow construction of the project in phases. The modification order did not alter the expiration of the original PUD order.
3. By letter dated and received by the Commission on December 30, 2009, the Applicant filed a request to extend the validity of the PUD approval for a period of two years, such that an application must be filed for a building permit for the PUD no later than March 21, 2012, and construction must start no later than March 21, 2013. The letter also requested that the validity of Order No. 07-13A be extended. The Applicant served all parties to the original PUD proceeding with a copy of the extension request.

¹ The Corcoran School of Art will occupy a total of approximately 100,000 square feet of space, a portion of which is below grade and does not count toward FAR.

Z.C. ORDER NO. 07-13B

Z.C. CASE NO. 07-13B

PAGE 2

4. The Applicant stated in its letter that, as a result of the crippled economic market, it lost its development partner in Fall 2008. Since that time, the Applicant has been searching for a new development partner and retained a commercial real estate brokerage firm to explore prospects for redevelopment or sale of the Randall School site. Approximately seven potential developers expressed an interest in the project, and an extensive interview process ensued. The PUD extension is necessary to allow the negotiations to proceed and provide certainty to potential lenders that the PUD approvals, including construction phasing, will not expire during the time it takes to restructure the development team, obtain financing, and construct the project.
5. By report dated January 29, 2010, the Office of Planning ("OP") recommended approval of the PUD extension request. OP determined, and the Commission so finds, that there were no material changes to the facts upon which the Commission relied in approving the original PUD. OP concluded that the Applicant met the criteria set forth in 11 DCMR §§ 2408.10 and 2408.11.
7. Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the Subject Property is located, was automatically a party in the instant case, as well as the original and subsequent PUD cases. The Applicant served the ANC with a copy of the extension request and the ANC was provided at least 30 days to respond.
8. By letter dated January 19, 2010, the ANC recommended that the Commission approve the PUD extension. The ANC also requested the Commission to include as a condition of the PUD extension order the terms of a private agreement between the ANC and the Applicant.

CONCLUSIONS OF LAW

The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties and all parties are allowed 30 days to respond; (b) there is no substantial change in any material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) substantial evidence demonstrates that there is good cause for the extension based on the criteria established in § 2408.11. (11 DCMR § 2408.10.) The three criteria under § 2408.11 are: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD Order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order. (11 DCMR § 2408.11.)

Z.C. ORDER NO. 07-13B
Z.C. CASE NO. 07-13B
PAGE 3

Based upon the findings of fact described above, the Commission concludes that the Applicant has met its burden of proof. The Applicant has demonstrated its inability to obtain sufficient project financing for the PUD, following its diligent good faith efforts to obtain such financing through a new development partner and as a direct result of the negative changes in economic and market conditions beyond its control.

The Commission further concludes that there is no material factual conflict that has been generated by the parties that would require a hearing under § 2408.11.

The Commission accords the views of the ANC the “great weight” to which they are entitled pursuant to D.C. Official Code § 1-309.10(d)(3)(A). However, because the ANC did not identify any material change to the facts upon which the Commission based its original approval of the PUD, the Commission concludes there is no basis for imposing new conditions in the PUD order. The private agreement was proffered as a public benefit of the PUD. The promises it contains were not made by the developer, who has now abandoned the project, but only by Corcoran Gallery of Art. The ANC does not contend that there has been a breach and therefore the public benefit remains.

DECISION

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of Z.C. Case No. 07-13B for a two-year extension of the validity of Zoning Commission Order Nos. 07-13 and 07-13A. The final PUD approved by the Commission shall be valid until March 21, 2012, within which time an application shall be filed for a building permit, as specified in § 2409.1. Construction shall start no later than March 21, 2013.

For the reasons stated above, the Commission concludes that the Applicant has met its burden; it is hereby **ORDERED** that the request be **GRANTED**.

On February 22, 2010, upon a motion made by Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, William W. Keating, III, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 19, 2010.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 08-17

Z.C. Case No. 08-17

(Text Amendments – 11 DCMR)

Prohibition of Certain Accessory Uses in Reed-Cooke Overlay

September 14, 2009

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

AND

Z.C. ORDER NO. 08-29

Z.C. Case No. 08-29

(Text Amendment - 11 DCMR)

**(Text Amendment to Create an Additional Exception to the Residential Requirement of the
Uptown Arts Overlay/Commercial Residential (Arts/CR) Zone)**

July 13, 2009

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.